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International Court of Justice

H0147 – 0001

Gallagher

H0147-0002

Official Transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 3 June 1946, 1000-1700 Lord Justice Lawrence presiding.

THE PRESIDENT: Dr. Servatius.

DR. SERVATIUS: Mr. President, I present the information that the witness Jaeger is expected to appear in about half an hour. I shall present and read some other documents from my document book, if it please the Tribunal.

In the last session I had quoted from the first document book those documents, with exception of Document 10, which I have left out by mistake. It is the "Memorandum for Eastern Workers." I need not read it, but shall only refer to it.

I have submitted as Exhibit No. 1 the manual for the "Commitment of Manpower," and in this exhibit we find the following documents which I have in part quoted, or shall quote right now: Documents 12, 13, 15, 22, 28, 58A, 67A, 82, 83, 85, 86 and 88.

Then I have submitted Exhibit No. 2, "Special Proclamation Condition of Eastern Workers and Soviet Russian Prisoners of War," which contained the following documents: Nos. 6, 32, 36, 39, 47 and 52.

Then as Exhibit No. 3 I have submitted the manifesto for "Commitment of Manpower," document No. 84.

Then as Exhibit No. 4, Labor Laws and collection of text of German Labor Laws, which contains documents Nos. 16, 31 and 49.

As Exhibit No. 5 I submitted a book, "The Fighting Speeches of Fritz Sauckel"; that is document No. 95.

Then as Exhibit No. 6, this has been submitted, The National Socialist Government Activity in Thuringia.

As Exhibit No. 7, "The National Socialist Government Activity in Thuringia" for the years of 1933 and 1934. That contains document No. 97.

I have also submitted as Exhibit No. 8 the booklet entitled, "Europe work on Germany," which has already been submitted as RS No. 5.

Then I shall submit an affidavit by the sone of Fritz Sauckel, Dieter Sauckel, which is very short. It refers to an incident of Fritz Sauckel, allegedly an evacuation of the camp of Buchenwald. I quote briefly from only an eight line affidavit.

"Between the 4th and 7th of April 1945, approximately, I was present when my father, Gauleiter Fritz Sauckel, had a conference in his office. At this occasion the question of the Buchenwald camp was discussed and the following was decided:" That is in document book No. 94, page 247. Continuing the quotation: "A certain number of guards should remain at the camp until the arrival of the foe, in view of transmitting the camp prisoners to him. I present the preceding affidavit in order that it be submitted to the International Military Tribunal in Nurnberg. I am ready to swear to the truth of my declaration. Dieter Sauckel." I submit this as Exhibit No. 9.

In Exhibit No. 206, which has been submitted the following documents are contained which I shall quote later: Nos. 7, 10, 14, 18, 19, 27, and 41.

The documents which have not been mentioned as yet are in the official collection of laws. I have had an individual research in the library, and I do not know whether necessary to submit it individually, or whether sufficient if I quote here and point out in what volume they can be found, that is the Reichsgesetzblatt.

THE PRESIDENT: Are they in your document book?

DR. SERVATIUS: Yes. They are short excerpts from the Reichsgesetzblatt, official publications of law.

THE PRESIDENT: Dr. Servatius, I think it would be convenient if you gave their exhibit numbers, if they are in your book, but I do not quite understand how you are arranging these. You told us that number one contained a great number of other numbers. Now is number one the exhibit number?

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DR. SERVATIUS: No.1 is the Exhibit number and within this Exhibit there are the documents with the individual numbers which --

THE PRESIDENT: In the books?

DR. SERVATIUS: Yes.

THE PRESIDENT: So that you are only submitting -- up to the present you have only gotten so far as nine exhibits.

DR. SERVATIUS: Yes.

THE PRESIDENT: And then you are going to give these various laws which you have in your books additional exhibit numbers. They will be 10 to --

DR. SERVATIUS: I did not know whether it was necessary to submit these laws as exhibits, as I know they have already been submitted -- these Reich Laws. They are an official collection of laws, the Reichsgesetzblatt of 1942, 1940. Of course, I can take out individual sheets and submit them here.

THE PRESIDENT: Wouldn't it be best if you submitted them as, say, Exhibit 10, and then told us the numbers in your books which are contained in No.10?

DR. SERVATIUS: Then it would be necessary to submit that exhibit, the original text. That is the collection of laws. I would have to submit it, and I wanted to avoid that; because they are known.

THE PRESIDENT: We can take judicial notice of them.

DR. SERVATIUS: Yes, I ask the Tribunal to take official notice of them, I will only point out, then, the last publication in which these documents can be found, and ask that judicial notice be taken of them.

In Reichgesetzblatt 1942 we find Document 8,11 and 17.

Reichgesetzblatt 1940 contains Document 45.

Reichgesetzblatt 1943 contains Document 21,

THE PRESIDENT: Wait a minute. Which was the first Reichgesetzblatt, the one which contained 8, 11 and 17?

DR. SERVATIUS: 1942.

THE PRESIDENT: Oh, yes.

DR. SERVATIUS: The second was Reichsgesetzblatt 1940, with Document 45.

The third was Reichgesetzblatt 1943, with document 21.

The fourth is Reichgesetzblatt -- rather, Reichsarbeitsblatt (Labor Publication), Document 33.

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THE PRESIDENT: What year, though?

DR. SERVATIUS: 1940.

The fifth is Reichsarbeitsblatt 1942, which contains the documents, No.9, 35, 40, 46, 50, 51, 64 A.

Reichsarbeitsblatt 1943 contains Documents 20, 23, 37, 42, 43, 44, 48, 54, 55, 57, 60, 60A, 61, 62, 64 and 68.

And the last Reichsarbeitsblatt, 1944, has documents 26, 30, 38, 58, 59, 65, 67 and 89.

I will briefly go through the Document Book now. I begin with Document Book No.2.

Document 32, orders and decrees concerning the employment of prisoners of war. That is the agreement of the 27th July 1939. There is an excerpt on the labor of prisoners of war, and in Article 31 the prohibited labor is mentioned.

In the next document, 33, there is a decree of the Reich Minister of Labor about the use of prisoners of war in places of employment, and there it is pointed out in detail for what types of work these prisoners of war can be used. And among these types of work there is not the manufacture of arms, only work in agriculture, forestry, important road-building, canals, large factories, and similar details.

In Document 35 we can see how the employment of prisoners of war took place, that is, the collaboration of the camp with the management of the industry, that a contract was worked out which took care of the regulations in detail, and it can be seen from there that the agency of Sauckel had nothing to do with that.

In Document 36 we find a similar decree as to the behavior of prisoners of war and the attitude towards prisoners of war, a memorandum which was drawn up jointly by the OKW and the Ministry of Public Enlightenment and Propaganda:

"Prisoners of war must be treated in such a way that their full productive capacity will be for the benefit of industry and food economy; a presupposition for this is sufficient nourishment."

And that last I want to underline.

Document 37 deals with the question of a transfer to civilian worker status of prisoners of war for work in Germany and shows that they get

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a certain compensation, that is a financial compensation, for trying to maintain a separate household -- all of which shows these workers were really treated like civilian workers.

The next, 38, is along the same lines and deals with visits to French, Belgian, Dutch prisoners of war by their relatives in the Reich. It says:

"Visits to French, Belgian and Dutch prisoners of war, likewise Italian military internees, are permitted only to wives, parents, children and sisters who work in Germany or have their homes in Alsace or Lorraine, and then only on Sundays and holidays."

This shows that the relation of prisoners of war ceased.

Document 39 is a memorandum as to general conditions which were valid for the use of prisoners of war, and it deals with the time, the working hours:

"The daily working time, including the time of marching to and from work, should not be more and not less, than that of the German worker."

And then it says:

"The right of the prisoners of war to a continuous rest period of twenty-four hours, to be granted when possible on Sundays."

Under Paragraph 7 of that same document it is stated that:

"Neither the employer nor his relatives, nor his employees, are entitled to carry out any punitive measures against the prisoners of war."

Then there is a paragraph in Document 40, as to housing in camps, accommodations, food. It is Directive 9 from Sauckel concerning the inspection of accommodations, food, heating and upkeep of the camps by camp artisan. It is dated the 14th of July, 1942:

"By August 10, 1942, an inspection of all industrial establishments in their respective regions which employ foreign labor must be carried out by all labor offices with a view to establishing that they duly abide by all regulations and decrees governing accommodation, feeding and treatment of all foreign male and female workers and prisoners of war. It is my desire that the administrative offices of NSDAP and DAF participate in this check-up in an appropriate measure."

Furthermore, under 2 Q in the same document it is stated:

All establishments employing foreigh labor should contact immediately their respective Food Control Offices (Department A) to insure the allocation of the supplies needed for foreign labor working in their camps during the coming winter."

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The decree closes with a directive that artisans should be employed in the camp and are to be paid by the camps, and are to be charged with its upkeep and repair.

Paragraph 3 of this document reads:

"All establishments are directed to order minimum of fuel and provide storage facilities in due time, so as to permit heating of camps and billets on the setting in of cold weather. They should immediately advise their Economic Board of their needs at once."

Then there is Document 18, a memorandum for plant supervisors and Eastern workers, which contains camp rules. It says:

"The General Plenipotentiary for Labor Commitment has issued notice sheets for the plant supervisors and Eastern workers, now that the commitment of Eastern workers has been intensified."

The camp rules then go on to say:

"Eastern workers, you are finding in Germany wages and bread, and you are safeguarding by your work the maintenance of your family"--

THE COURT: Couldn't you summarize these documents more shortly?

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Then Document 41 shows that the care for the eastern workers was especially the task of the German Labor Front, DAF, which is explained in detail.

Document 42 deals with the same subject. That stresses the inspectorates and says that for the care of foreign workers all necessary measures have to be taken, the supervision offices and other offices have to regulate that together with the Labor Front. It is administered by Reichs Labor Minister Seldte, not by Sauckel; and from document 43 one can see that Sauckel has not become the Labor Minister.

In Document 43 there are detailed explanations to the new regulations, to which I will refer in detail later. But as to the document 43 I should like to stress again the position of the Inspectorates, the "Gewerbeaufsichtsamt." And here is the question of responsibility for hygiene, and it says in the end the authority in the sense of the new regulation is the "Gewerbeaufsichtsamt" and inspectorate. It is important for the medical supervision which, after all, has been taken car of by the Inspectorate; which the witness will show later on.

Document 44 contains specifications about quartering, the equipment of sleeping quarters, and about medical care; signed again by the Reich Labor Minister Franz Seldte.

The next group of documents deals with food. Document 45 is the meat inspection law which treats the question how far meat is in condition fit for consumption and can be used.

THE PRESIDENT: Dr. Servatius, about the inspection of meat, we do not require any further information about it.

DR. SERVATIUS: Then 46 shows that the foreign workers if they were not in the camp received their food rationing cards.

Document 47 is decree by the Reich Food Minister and shows that he was responsible for determinging the nutrition quotas. The document also gives the rations. I mention only a few for foreign workers. 2600 gram of bread per week. That increases, and we can reach that later in case these questions should become important.

THE PRESIDENT: Page 128 shows that prisoners of war are employed in the armament industry, doesit not? Page 128.

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DR. SERVATIUS: It says there the food rations of Soviet prisoners of war working in the armament industry as far as they are in camps; and then there is a list of rations. I cannot see --

THE PRESIDENT: 128 in English, page 128, lines 4 to 12, treatment of the sick: All prisoners of war and eastern workers, male and female, who are employed in the armament industry.

DR. SERVATIUS: It says there: All prisoners of war or eastern workers who are employed in the armament industry. Armament industry is not weapons manufacture -- armament manufacture.

48 only refers to a sentence -- I see the translation department has left out a short sentence but I can do without that. It refers to the taking along of food in case of trips to the home country. That has to do with supplies on the trip home.

Document 49 shows an arrangement that also additional food can be given on diet in the hospitals; and that was also taken care of.

The next group are questions of wages delat with. The first is document 50.

THE PRESIDENT: It seems to me sufficient if you give us a group and then tell us what it deals with. Then we can look at it.

DR. SERVATIUS: Yes. That is from 50 to 59. There is one left out, document 56. The questions of wages. And charts are included here, and one has to deal with these things when they become acute. Therefore, I shall not make any specified statements about that now.

Document book number 3 contains a group of documents of laws and directives; 58 about medical care. I believe here also I do not have to go through the documents because they will become only necessary in connection with the subject --

THE PRESIDENT: Give us a group and tell us what it is about and then we can look at it.

DR. SERVATIUS: Yes. It deals with the medical care and, as I said, it becomes only interesting in dealing with details when a particular case becomes acute. It is not necessary to present them now.

The next group of speeches made by Sauckel about the commitment of manpower are contained in the manual. I would like to refer to one in particular that is of the 6th January '43, a speech made on the 6th January '43 which

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was after the conference between Sauckel and Rosenberg. It says there the Pleni otentiary for manpower on the 5th January -- it is 204 in my book and in the English text it should also be 204.

THE PRESIDENT: Probably that 8000 should be 800.

DR. SERVATIUS: Yes. Yes, it should be 800. I have also mentioned that document already and read the central parts from it.

Document 82 and Document 83 have also been mentioned in their essential parts.

Document 84 is a manifesto which has been presented in detail.

The Document 85 shows principles of Sauckel which are along the same lines, the essential that in 1943 they had the same tendency as they had before. They show the same tendency as before.

Document 86 is a speech of the 2?th August '43 to the presidents of the labor offices. Here again Sauckel stresses in his speech responsibility of the labor presi ents, his basic principles which he has menti ned here frequently. He adheres to that on the 17th Janu y '44. That is document 88. Again in his speech bef e his presidents, by stressing that point of view, and by saying: The fore n workers have to be treated better and better, and in the end: "The more I do for the foreign laborers working in Germanh, the better I treat them, the more I influence them spiritually, to that much larger extent will I have their productive capacities at my disposal." And that was shortly -- two months before he succeeded in the equalization between foreign and domestic workers.

THE PRESIDENT: We have heard the defendant Sauckel explain.

DR. SERVATIUS: Yes.

THE PRESIDENT: That the work was carried on. And will you tell us where the group of speeches -- how far does the group go?

DR. SERVATIUS: It does up to and including document 89.

Document 94 I have read already. Document 95, 96, 97 I have already read as far as necessary. And that brings me to the end of the presentation of documents.

Now, I would have to mention affidavit which is attached to document book by the Witness Karl Goetz.

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I submit, then, as Exhibit No. 10 an affidavit by Karl Goetz. That is an interrogatory which has been submitted very early, and therefore was kept in a general way, because details at that time were not very apparent. Therefore, the witness could not say anything specific to a number of questions.

As far as the questions are answered, he refers to an introduction which he has given, and also in answering the questions raised by the prosecution, he refers to that introduction. Therefore, I believe that I have also to read these passages from the introduction.

The affidavit is of the 20th of March, 1946. From the introduction, I should like to emphasize on the second page where it mentions a conference in Paris that witness Goetz was a banking expert in Weimar in southern Thuringia, who assisted Sauckel and his staff. He was a statistician and took part in the negotiations with Laval. He said that negotiations led to a long conference, and according to his observations, "in correct and polite manner. Laval took notice of Sauckel's proposal and agreed to accede to his demand. But he made counterporposals for political reasons."

I do not think I have to go into detail, because what was negotiated is of less significance.

Then he said again on the third page, "During a later conference in Paris the proceedings were similar. Laval had assumed a stiffer attitude, and he pointed out that great difficulties had to be overcome before additional workers could be procured. He emphasized that the French labor employment should not be stripped of its best forces."

I believe I can turn on to Page 4. The witness says, "My last mission for Sauckel was to determine whether it was possible by means of pooling all banking connections to purchase an additional amount of grain from Rumania and Hungary (about 50-100,000 tons of grain). This grain was to be used for additional luncheon bread to be distributed to foreign laborers."

Then he says that that could never be worked out, in fact. Then he gives a general impression of Sauckel, and says briefly that Sauckel approached that task with his particular energy, and pointed out frequently that it was the major duty of the various offices to see to the correct treatment of workers at

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their place of employment. Then he described the details. First of all, he demanded that foreign workers should not have the feeling of being imprisoned, and he continues by saying that he believes that Sauckel said that the workers had to be returned at their native countries as German propaganda agents.

Then the witness gives a very specific observation about the knowledge of atrocities. I should like to read on Page 6 in order to show what kind of person this Goetz is.

THE PRESIDENT: What page is your excerpt from?

DR. SERVATIUS: Page 6, or Page 266 of the document book, at the top of the page.

THE PRESIDENT: Yes. Go on.

DR. SERVATIUS: It says: "I feel that I should mention that following my arrest by the Gestapo after the affair of 20 July 1944, Sauckel spoke in my behalf with Security Headquarters (Kaltenbrunner?). I cannot say whether my discharge from the concentration camp Ravensbrueck was thereby affected.

" I wish to state that I have not received from Sauckel any material remuneration nor have I received honorary titles or decorations.

" I found it expedient to conceal from him my own political convictions and also my connections with Goerdeler and Popitz. In his blind obedience to Hitler, and in spite of our old friendship, he would no doubt have handed me over to the Gestapo, from which he endeavored to free me in November, 1944."

I have anticipated that, and I return to page 265, because the witness, who was then active in the staff of Sauckel, takes position on a question which is interesting to all of us. He says:

"I am thinking how the above conditions compare with the official publication of gruesome conditions as they were found to exist in concentration camps. In spite of my concentration, I have not been able to come to any definite conclusion on this subject. I perceive on one side the foreign workers --

THE PRESIDENT: What page is this? Page 265?

DR. SERVATIUS: Page 265. It is near the top of the page. Where it is in the English text, I cannot say; but it should be Page 265.

THE PRESIDENT: Yes.

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DR. SERVATIUS: "I perceive on one side the foreign workers, men and women, who circulate freely and in great numbers, and associate with the German people. I had a personal interest to speak with Frenchmen and Belgians. They were happy to hear and to converse in their native tongue. They were speaking freely, hoping the war would soon end. They were critical of their employment, but they never spoke very bitterly. On the other side appears the unbearable picture of the new revealed mass atrocities. It was known that foreign workers were tried and sentenced. But it was not known that mass sentences were handed down. They probably became the victims of the same punitive measures and miscarriage of justice as was applied to the Germans. But that had really nothing to do with the employment of labor. I find it impossible to reconcile what I heard and what I saw in those days with the present revelations. It is possible that the above is a development which took place in the last year and a half. I was not able to observe the situation during that time because of my arrest, and the time I spent in seclusion in the country. It is also possible that there existed a vast concentration camp pool besides the regular pool of foreign workers. It is also possible that Sauckel was not able to supervise the whole system clearly, and was not informed of certain phases, or that he deceived himself with his written and oral orders. I am unable to understand the latter course."

I considered these statements of particular importance, because the witness has stood on the side of the men of the 20th of July and certainly observed Sauckel carefully; and his judgement has to be taken very seriously.

As to the questions themselves, Question 1 and Answer 1 I consider relevant; also, 2, 3, 4, 5, and 6. All of those are answers which are of minor importance when compared to Question 10, which is on Page 276. The question was "Who was responsible for billeting, maintenance, and messing of foreign workers after they had arrived at the place of work?"

And the answer was: "I heard only that, from the moment work was started, the responsibility rested on the work manager (and in most cases on subordinated employees)."

Question 11 is: "What order did Sauckel issue for the treatment of these workers in the plants?"

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The witness refers to the introduction in giving the answer, the introduction which I have read.

The next questions, 13, 14, 15, 16 and 17 are irrelevant. Question 18 is: "Did Sauckel receive reports about irregular conditions? What measures did he take? Do you know of any individual cases?"

Answer: "I remember only one case. Sauckel was informed that the workers of a certain plant were still housed in a barbed wire enclosed camp. I cannot recollect the name of the place or the plant concerned. I heard that he ordered the immediate removal of the enclosure."

Then we come to the questions which are put by the prosecution. I believe that Question 1 is not relevant, because it deals with the personal relations to Sauckel, and how he met him. He met him as a prisoner of war.

THE PRESIDENT: Dr. Servatius, Mr. Biddle thinks that the prosecution ought to be asked to read anything they wish to out of those interrogatories.

M. HERZOG: The prosecution, Mr. President, does not wish to read any excerpts from this cross examination.

THE PRESIDENT: Dr. Servatius, you know that the witness Jaeger is present, do you not?

DR. SERVATIUS: Yes, he is present.

THE PRESIDENT: You know he is present.

DR. SERVATIUS: Then with the permission of the Tribunal, I will call the witness Jaeger.

DR. WILHELM JAEGER, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name, please?

A Dr. Wilhelm Jaeger.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

EXAMINATION

BY, DR. SERVATIUS:

Q Witness, during the war you worked with the firm of Krupp in Essen in charge of caring for the camps of foreign workers as a doctor?

A Yes.

Q Is that true?

A Yes.

Q Who put you in charge there?

A I was apponted by the firm of Krupp, which employed me, since the change was brought about by the fact that the organization of doctors had to take over the care of foreign workers.

Q Were you not also put in charge by the German Labor Front?

A No. The Labor Front did have the contract which was made between the firm of Krupp and myself. It went through the German Labor Front.

Q If I understand you correctly, you did not conclude the contract immediately with the GLabor Front, but you were under obligations to the German Labor Front, were you not?

A I have never felt that I had anything to do with the Labor Front in that respect.

Q Witness, did you not continuously send reports to the German Labor Front about the conditions in the camps?

A That happened only in a few cases as near as I can remember. Mostly, I sent these reports to the hospitalization agency and to the firm of Krupp.

Q Didn't you also report to the official work inspectorate?

A Not always. I reported to the health office of the City of Essen, but only

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in urgent cases in which it appeared important to me to have the health office informed.

Q Do you know of the office of health and national protection?

A Yes.

Q With what office was that connected?

A That was in Essen --

Q Not as far as the locality is concerned, but with what office was it? Wasn't it with the German Labor Front?

A I could not say that precisely. I only know that there was a department of that with the hospitalization agency in Essen.

Q Is it known to you that the foreign workers were cared for by the German Labor Front?

A Yes.

Q Always as far as their health was concerned?

A On only one occasion I met a commission of the Labor Front in a camp.

Q Do you know of the institution of the Gau camp doctors?

A It was planned to create an institution of that kind in Essen but it did not succeed. At the time when we had just come through a typhus epidemic I approached the Gau Health Leader -- that was a Dr. Heinz Buehler -- and I suggested to him instituting such an office; then, also, in a meeting I spoke about it air, but I did not hear anything about that any more from the Gau Health Leader

Q How many camps did you supervise?

A That varied. First there may have been five or six; then later maybe seventeen or eighteen; then again they were reduced to a lower figure. But I am not able at this moment to give you these figures exactly.

Q What was your task?

A First of all, I was supposed to assure the medical care for foreign worker

Q Did you have anything to do with the treatment of sick workers?

A Only when they were brought to me, and whenever I was in the camps I personally tried to care for individual cases in the camps whenever I inspected th

Q You were not only in a supervisory capacity but you also treated them yourself in the camps?

A Yes. When I was in any camp I was asked by the camp doctors and I advised them.

Q What was the job of the camp doctors?

A The camp Physicians had daily duty in the hospital and the treatment of the sick ones in general.

Q So your activity was a supervisory one?

A Yes.

Q Witness, the Prosecutor has repeatedly interrogated you outside of this court room. is that true?

A Yes.

Q You have been in Nurnberg before, in this building here? That was when the proceedings statrted?

A Yes.

Q Did you sign an affidavit about the conditions in the Krupp camps?

A Yes.

Q I will put this affidavit to you. This is an affidavit of 15 October, '45. Did you give that affidavit as a witness for the prosecution?

A As far as I can remember, yes.

Q Now I ask you to confirm whether you still stand on the statements which you made at that time?

A Yes.

Q I shall read the statements to you: "My name is Dr. Wilhelm Jaeger. I am a Physician in Essen --"

THE PRESIDENT: Dr. Servatius, we can't have the whole document read to him. You can put to him anything you want to challenge him upon.

DR. SERVATIUS: Very well.

BY DR. SERVATIUS:

Q You say, at about the middle of the third page: "I began my work with an overall inspection of the camps. At that time, in October of '42, I found the following conditions: --" and you go on to say: "The eastern workers were housed in the following camps: Seumannstrasse, Grieperstrasse, Spendlestrasse, Haegstrasse, Germaniastrasse --"

THE PRESIDENT: Are you challenging that?

DR. SERVATIUS: Yes.

THE PRESIDENT: Where were these camps?

DR. SERVATIUS: Yes, that is what I want to ask him.

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BY DR. SERVATIUS:

Q Did these camps exist at the time?

A So far as I can remember. One has to take into consideration that until I started my work I did not know at all what camps existed. In a meeting which had been called of Physicians of various nationalities, I asked first of all what kind of camps there were; one didn't know it. Thereupon, first a list was brought which mentioned these camps.

Q Witness, you have mentioned the camps here by name and you are not certain that these camps existed at that time, in October, '42?

A As far as I could remember, I listed these camps which existed at the beginning of my activities. Also, I had to go to each one of these camps personally and I had to depend entirely upon myself.

Q Furthermore, you state concerning the food of the Eastern workers -- if you will look at the second page of the document, you said the following; "The food for the Eastern workers was quite unsatisfactory. They received one thousand callories per day less than the minimum for Germans, --"

THE PRESIDENT: Dr. Servatius, below the names of the camps, he says: "All surrounded by barbed wire and were closely guarded." I understand you are challenging that?

BY DR. SERVATIUS:

Q Were the camps surrounded by barbed wire and closely guarded as it says here

A In the beginning, yes.

Q But you don't know whether that was the same in the case of all camps, do you?

A The camps which I visited where they didn't know me yet, for instance, Kraemerplatz and Dechenschule, they were closely guarded and I had to show my credentials in order to get in.

Q I repeat the question concerning the food. You said the Eastern workers received one thousand callories per day less than the minimum for Germans; whereas German workers who did hard work received five thousand callories per day, the Eastern workers who performed the same kind of work received only two thousand callories per day. Is that true?

A That was true at the beginning of my activities. The food for Eastern workers, as I could see from the list, was established, and there was a difference in

the supply for Eastern workers. The five thousand callories which I mentioned here were given to specific categories of German workers who did the hardest type of work. That was not generally established.

Q Witness, I shall put to you a chart of the callories.

DR. SERVATIUS: I submit to the Tribunal a copy of this chart. That is a table of callories to which the individual categories of workers were entitled. It begins with the 9th of February, '42, and it shows the individual quotas for types of workers, and on the last page there is a summary of the average quotas of callories which were appropriated.

BY DR. SERVATIUS:

Q It is shown there in the summary, Group 1, Eastern workers and Soviet prisoners of War, average workers 2651 callories; heavy workers 2615; heaviest workers 2909; agricultural workers 2444. Are you familiar with these figures?

A Approximately.

Q Will you compare what the German workers received; the normal consumer 2846 callories; heavy workers 3159; heaviest type of work 3839; agricultural workers 2046. Is that inaccord with your statement, according to which you said that German heaviest workers received five thousand callories whereas the Eastern workers received only two thousand?

THE PRESIDENT: It is very hard to follow these figures unless you give us the exact page. Are you on the last page?

DR. SERVATIUS: On the last page there is a summary --

THE PRESIDENT: Well, which page are you on?

DR. SERVATIUS: On the last page, the last sheet on the right side. First are the nutritional groups 1, 2, 3 on various pages, and then on the last page on the right side, next to Group 3, there is a summary of callories for Eastern workers, for Germans and for Poles; and if you compare here the columns, the amount of callories, then that should be according to what the witness has stated here. He picked out the heaviest workers and says that the Germans received five thousand. The table shows that they only received 3839. And he says the eastern workers received two thousand whereas, according to the table, they received [illegible] 2800. That is, instead of a proportion of five thousand to two thousand, it is [illegible] from 2800 to 3800, and that is a thousand callories and not, as the witness has said here, three thousand callories. Is that correct? Do you stand on your --

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THE PRESIDENT: I din't hear the witness' answer.

DR. SERVATIUS: A difference has to be made here --

MR. DODD: I think it would be more helpful to the Tribunal and certainly to the Prosecution if it was established who made up this chart and whether or not the figures given here cover the camps where this witness had jurisdiction. From looking it over I can't tell where it was made up, except on the front page it says: According to food Schedule by Dr. Hermann Schall, Medical Superintendant of the Sanitorium West End. Calculations of controlled victuals for the community camps of the firm Krupp. And so on. But these things can be made up by the bale and presented to witnesses. Unless there is some foundation laid, I think it is an improper way to cross examine.

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DR. SERVATIUS: Mr. President, I have an affidavit here which explains to the Tribunal where that table comes from.

THE PRESIDENT: Have you ever seen this chart before?

DR. SERVATIUS: It is the affidavit of the witness Hahn.

THE WITNESS: Was a question put to me, please?

DR. SERVATIUS: The witness has the original. May I ask the witness to return the document to me?

THE WITNESS: I wanted to make a statement. At the beginning of my activity, the Eastern worker's food definitely differed from that of the German population and also that of the so-called Western workers, the French and Belgiums and so on. It can be seen from the figures that, even though it might not be in thousands, at least there is a difference of 700 to 800 calories. In thebeginning -- until I believe February or March 1943 -- the Eastern workers received neither additional rations for long work, heavy work or heaviest work. These additional quotas were given only after a decree by Sauckel, and that was, if I remember correctly, at the beginning of 1943. At that time, if I remember correctly, the Eastern workers were put on an equal footing with the German workers, as far as food was concerned, and they received quotas for long work, for heavy work and for heaviest work, additional quotas that they had not received before.

BY DR. SERVATIUS:

Q Witness, if I understand you correctly, you want to say that this table may be right but that, in fact, the workers did not receive that which we find listed on the table. Did I understand you correctly?

A Even from this table you can see the difference.

Q It is a difference of 3,000 which you mentioned, whereas the table shows a difference of about 1,000.

A I said before that there were individual categories of heaviest workers, of workers doing the heaviest type of work, such as miners, and that they received up to 5,200 calories, but that was not general. There were only special workers, specially skilled workers up to 5,200 calories.

Q Then what you say here is not correct because you do not mention that. You say generally that, whereas the German worker who did the heaviest type of work received 5,000 calories, the Eastern workers who did the same

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type of work received only 2,000 calories per day. That is a general statement, is it not, and it can not be seen therefrom that you are referring to exceptional cases of individual types of workers. Is that correct?

A That is the way I saw it, and I wanted it to be understood that way.

THE PRESIDENT: Now, where does this chart come from, and are you putting it in? Will you put it in?

DR. SERVATIUS: In the affidavit the following assertion is made, and the witness has said clearly that at that time the workers doing the heaviest type of work, if they were German, received 5,000 calories, and if they were Eastern workers, received only 2,000. That is a very clear statement in the affidavit, which is not according to the table.

THE PRESIDENT: Are you offering it in evidence?

DR. SERVATIUS: Yes.

THE PRESIDENT: What will it be? What number will it be?

DR. SERVATIUS: That will be Exhibit No. 11.

THE PRESIDENT: Does the affidavit refer to the chart?

DR. SERVATIUS: I asked concerning the affidavit whether it is correct.

THE PRESIDENT: No, I asked whether the affidavit refers to and identifies the chart, the chart which the witness has just had in his hand.

DR. SERVATIUS: Yes.

THE PRESIDENT: Dr. Servatius, you have put in an affidavit by Walter Hahn. Does that affidavit mention the chart and say where the chart comes from and by whom it was made up, to what it refers?

DR. SERVATIUS: The affidavit which is here as document D-288 does not mention the chart, but the affidavit which I have submitted --

Yes, now I have understood. That is the affidavit by the witness Hahn, and the chart is attached and it is covered by the affidavit made out by that witness. That document I submit in evidence.

THE PRESIDENT: I said the affidavit by Walter Hahn--does it identify and attach to the chart? What page is it? There are seven pages, you know. We can not find it unless you tell us.

DR. SERVATIUS: In the German text on page four.

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THE PRESIDENT: Well, do you mean where it says, "The percentage of calories contained in this foodstuff results from the calorie schedule covering the whole war time appendix"? Is that waht you mean? That is on page four of our copy. It is under the heading "C","Food Supply of French Prisoners of War and Italian Military Internees."

DR. SERVATIUS: That is there where I have said before, on page four in the German text, which says that the nutrition quotas were established according to the calories, and the calories can be seen from the calculations which I have made and which cover the entire duration of the war, and that is the document attached.

THE PRESIDENT: But, it is all right to say that the document is attached, but it does not refer to it by any name.

DR. SERVATIUS: But the document is attached, so that it can be seen that it must belong to it.

THE PRESIDENT: Very well.

MR. DODD: Mr. President, I do not want to be contentious about this, but--maybe I do not understand--I think we ought to know when this schedule was made, by whom. This affidavit says it was an appendix. Maybe it was made by the man Hahn, but we do not know it yet, and this witness has not testified to it, and Counsel has not told us.

THE PRESIDENT: Mr. Dodd, the position is this, is it not: The man named Walter Hahn made an affidavit, annexted to this chart. That affidavit is dated, I imagine--

MR. DODD: Yes, 1946.

THE PRESIDENT: -- after the affidavit had been made by this witness and replies in detail to the evidence given by this witness.

MR. DODD: Yes. What I wanted to understand fully was that this schedule, concerning which this witness is being cross examined, was apparently not made up at the time when he had responsibility for these camps, and so far it does not appear from the examination that that is so, and I think it would have great bearing on the weight of the evidence adduced through the cross-examination.

I would like to point out that it was the defense of Sauckel that he had nothing to do with thefeeding and care of these workers after they came into Germany but that it was the responsibility of the DAF. I think it might

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be more helpful if Counsel cleared that up so that we wouldknow whether he does admit responsibility after they came in, and whether that is the purpose of this cross examination.

THE PRESIDENT: Go on.

DR. SERVATIUS: Mr. President --

THE PRESIDENT: Wait a minute. The Tribunal does not think that you need interrupt your cross examination. You can go on.

DR. SERVATIUS: Mr. President, the Prosecution has just made that assertion as an accusation against Sauckel. If the Prosecution today is of the position that Sauckel wasnot responsible for the happenings in the industries but the management of the industries was responsible, and that he was not responsible for prisoners of war but that the armed forces were responsible, then I do not need this witness.

THE PRESIDENT: Go on with your cross examination, please.

BY DR. SERVATIUS:

Q Witness, concerning the clothing for foreign workers, you have made some statements. You have said that they slept in the same clothes in which they had come from the East and that almost all of them lacked overcoats and were therefore forced to use their blankets and to carry their blankets in the place of coats in cold and rainy weather.

Was it always like that? Was it a general occurrence or only an individual observation?

A In order to avoid anything happening again as it just did before, I have to state in the beginning of my activities I depended entirely upon myself. There was nobody else to work with me.

The camp management, which existed after Hahn--if I remember correctly--only after April 1943. The phase which I intended to describe and have also described in my statements is always at the time when I started to work. At that time the conditions were in fact as I have described them, and I had to so something about it. It was also so concerning clothes, as has been stated here.

These people remained in the same condition as they had arrived, as far as clothing was concerned, for quite some time, and as far as I could see, they did not receive anything at that time.

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Q What was done about that?

A I reported these conditions. I do not remember when. As I could see, the intention was to establish tailor shops and shoe shops in the camps, and some of them were established.

Q One question. Did things get generally better in the course of your activities, or did they become worse?

A They did not become worse. After 1943, after the first heavy air raids, of course the confusion was very great. A great deal was burned up, and I may recall that during only one night, 19,000 persons lost their housing, and of course, clothes and underwear burned also, and their losses took quite some time to replace.

Q Were these conditions caused by the firm of Krupp or by lack of supervision on the part of the Labor Front?

A As I have said, I met the Labor Front only once in a camp. At that time, that commission, indeed, criticized conditions. It was in the camp at Kraemerplatz, and they wanted to have the firm of Krupp fined because of the conditions, but that was the only time that I got in touch with the Labor Front.

Q. Did the firm of Krupp object to the improvements so that the Labor Front had to do something about it?

A. That I could not say. I had no influence and didn't know about it because I only had to do with medical affairs and did not participate in meetings of the firm of Krupp or the Labor Front.

Q. Witness, you also made statements concerning the conditions of health, and you said that the supply of medical instruments, bandages, drugs, and other articles was quite unsatisfactory in these camps. Is that true or were those exceptional cases, or was it a condition which existed all the time?

A. That was the way I found the camps in 1942, and I tried to improve it. Later, of course, there was such an improvement.

Q. You are saying here that the number of eastern workers who fell sick was twice as high as the number of German workers, that tuberculosis was especially prevalent, and precentagewise there were four times as many people among eastern workers affected with tuberculosis as among Germans. Is that correct?

A. That was so in the beginning because we received the workers without any physical examination. When I went through the camps, I heard from the camp doctors, and saw for myself on the occasion of inspections, that many people were sick. The figure was considerably higher than among the Germans as far as I could see at that time.

Q. And what was done about that?

A. Then, after we found out it was tuberculosis, we were confronted with, we made examinations in large numbers, group examinations, and those affected with tuberculosis were separated from the others and put into hospitals.

Q. Then you mentioned typhus, and said that that was also widespread among the workers.

A. I said specifically that we had about 150 cases of typhus.

Q. In what period?

A. During the entire period from 1942 to 1945.

Q. How many workers did you have during that time?

A. Oh, that varied.

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Q. Approximately, Give us some approximate figure.

A. Well, if I remember correctly -- but I have to make certain limitation because I don't know exactly -- there may have been 23,000, 24,000; there may have been more. Later, there were about 9,000 but these figures varied.

Q. Do you consider it correct, if 150 people of such a large bumber are affected by typhus over that period of time, to say that it was widespread among the workers?

A. Well, we had none at all among the German peopulation. Then, of cour that statement was justified. If, out of a population of 400,000 or 500,000, such as it was at Essen at that time, there was no typhus at all, and if -- let's take an averare figure of 20,000 -- among the 20,000 we had about 150 cases, then we can say that.

Q. In other words, you maintain that statement is a correct statement, that typhus was widespread.

You say, furthermore, that carriers of these diseases were, amongst other fleas and other vermin that tortured the ibhabitants of those camps. Was that true about all the camps?

A. It was the case in almost all the camps at the beginning of my work. Later on, an institution for disinfection was established by the firm of Krupp, which was destroyed immediately when it started. It was rebuilt and destroyed again.

Q. You say that in cases of disease, the workers had to go to work until a camp doctor made out a certificate that they were unable to work, that in the camps at Seumannstrasse, Oriperstrasse, Germaniastrasse, and Kapitaen-Lehmannstrasse, there was no daily sick call, and at these camps the doctors d not appear for two or three days; that as a consequence, workers were forced t go to work despite illness until a doctor appeared. Is that correct?

A. A worker had to work unless a camp doctor certified he was unfit for work. It was the same with the German population. I know that in many cases, if a man did not report sick he had to go to work, but there was no difference there.

Q. And you say that that was the case in the camps mentioned, that there

was no daily sick call and it meant that a man could not possibly report sick?

A. Oh yes, he could. He could go to a doctor. If there were no doctors there, I had arranged that wherever possible these people should come to me in my office, to me personally.

Q. You have said here --

THE PRESIDENT (Interposing): I think we had better adjourn now.

(A recess was taken)

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BY DR. SERVATIUS:

Q Witness, before the recess you said that the workers could report ill even when there was no doctor present, that there was another means at their disposal. You said, in this connection, that these camps were visited only every second or third day by the regular doctor. As a consequence, the workers, despite illness, had to report for work until the doctor was actually there. Is that correct?

A That is not expressed correctly. If anyone reported himself ill, he had to be taken to a doctor, or the doctor was notified.

Q Witness, I should like to return once more to the subject of the spreading of typhus. How many death cases resulted?

A About three or four death cases resulted, and they occurred only where the case was diagnosed too late. These people who had typhus were brought into the hospital immediately, and I was the person who was responsible for their being taken to the hospital.

Q Witness, you said on another occasion -- at page 2 -- that according to the regular allotment there was just a little meat prescribed, such as horse m eat or meat which was diseased or was not considered good by veterinary. Does that mean that the foreign workers received spoiled meat?

A You have to define the expression "meat that was given out." The meat which was not given out in the regular allotments by the veterinary-- after this meat had been treated in a certain way it was entirely suitable for human consumption. Even in time of peace, and afterwards, the German population used this meat for food. During the war the German population received the same kind of meat, and they received a double allotment.

Q Then it was used as the regular allotment?

A Yes, after it had been treated. Meat which had been condemned at first, after it had been treated, was used for human consumption; and it was quite suitable.

Q Then the expression "condemned by the veterinary" means that it was used later on?

A Yes; you would have to carrect the statement to say that it was condemned in the beginning.

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Q Witness, regarding the French prisoner of war camp on Noeggerrath Street, you said the following: "This camp had been destroyed through a bombing attack and the inmates, for almost half a year, were housed in old baking ovens, in dog houses, reservoirs, and so forth." Is that correct?

A That is the way I found this camp.

Q And you saw that yourself for a half year?

A I was only there on three occasions. It was pictured to me in that way, and I found the camp in that condition. As far as I could determine at that time--it had been about four months after the destruction--it was rebuilt.

Q Witness, I am interested in the dog houses. How many of those dog houses were there? Were they real, honest-to-goodness dog houses, or was that only a derogatory remark about some other kind of billets?

A I know they were put together by inmates.

Q Was there a pissoir?

A That was a place where the doctor had his office hours.

Q Was that a former pissoir, or was that a pissoir that was in active use?

A A former pissoir.

THE PRESIDENT: We cannot understand; will you kindly go slower?

BY DR. SERVATIUS:

Q Then it was a former pissoir which had been rebuilt?

A It had bot been rebuilt; itwas used just the way it had been.

Q Was this pissoir, or this latrine, still being used?

A It was not being used.

Q Then you said that there had been no tables, chairs, or wardrobes in this camp.

A That was not the case: there were none.

Q Witness, this testimony which you saw a little while ago, did you swear to that?

A Yes.

Q Are you sure it is that piece of testimony in the document which was just submitted to you?

A The testimony which was submitted to me was received by me at my

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home in Kemnitz. I made some alterations, and then signed my name to this testimony.

Q Witness--

THE PRESIDENT: Please don't interrupt him.

BY DR. SERVATIUS:

Q Please continue.

A I must assume that it is the correct testimony, or a correct record.

Q Do you have it before you?

A Yes, I have the record before me.

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Q Can you determine which places you scratched out? Were there many places like that which you scratched out, or were there just a few points?

A Sometimes entire sentences.

Q And you attested to that? You swore to it?

A Yes. After I had made these changes I swore to this record.

DR. SERVATIUS: Mr. President, I should like to call the attention of the High Tribunal to the fact that this testimony which we have before us now has not been sworn to. However, a statement was present at the beginning of the document, which was much shorter than this, and a number of sentences which the witness just mentioned here are lacking in the statement. I would suggest, therefore, that the prosecution be charged with the task of producing the original, or have the original submitted to the prosecution, so it can be determined and proved just what he did strike out. So far as I know, he struck out a few sentences dealing with matters which he had just testified to here before the Tribunal.

As an example I should cite that he stated that in this camp there were no chairs, tables, or wardrobes. That is a sentence which was struck out I should like to call your attention to the fact that at that time the witness had misgivings and he did not swear to these facts.

THE PRESIDENT: I don't know what you are talking about. We have got before us what is called a sworn statement, which was put in evidence and which is signed by the witness. The witness is now saying that that statement is correct, subject to any alterations which you have extracted from him in cross-examination.

DR. SERVATIUS: He said it might be entire sentences, your Honor. I should like to ask the Prosecution to produce the original document, because I have seen two statements, one of which is a brief one, with some of these passages struck out, and the other is a complete one, such as we have before us, and about which the witness says that it has been abbreviated and sentences struck out.

THE PRESIDENT: All that the witness is saying, isn't it, is that it was originally submitted to him in a certain form? He made certain alterations in it. Then, when those alterations had been made -- I don't know whether it was fair-copied or not -- he then signed it and swore to it, and that is the

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document that we have got.

DR. SERVATIUS: Mr. President, my assertion is this: The document which we have before us does not have these sentences struck out; that is, the words which were struck out are still contained in the document.

THE PRESIDENT: You may ask the witness any question you like about it.

BY DR. SERVATIUS:

Q How did you make your alterations known?

A I crossed off these passages in ink andput my name next to the alterations. Of course, it is difficult, because today I am not able to say just what I did strike out at that time since I did not retain a copy of this material.

DR. SERVATIUS: Mr.President, if this document which we have before us were reproduced correctly, these struck-out passages would have to be shown, especially since the witness said that he made these changes and put his initials next to the struck-out passages.

THE PRESIDENT: Did you sign the document after it had been fair-copie

Witness, did you sign the document after it had been fair-copied? You know what a fair copy is, do you not?

THE WITNESS: Yes. I will try to remember exactly, your Honor.

This material was submitted to me, I made my alterations, and thereupon three or four of these statements were signed by me. Then these records were taken away and, on the same day or the following day, I was at Essen and swore to these statements.

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Then I received a record and I read that before the court.

BY SERVATIUS:

Q Was that without any changes?

A That was without any changes. I don't exactly remember. I'm sorry.

Q And what was the cause? Why did you make these alterations?

A The record originated in such a way, Captain Harris visited me and interrogated me on these matters. Notes were taken and thereupon Captain Harris -- I believe it was -- compiled this record and asked that I sign it.

Q And why did you make these alterations, these strikings-off?

A Because I could not swear to these things; the things that I struck out I could not swear to.

Q Was it incorrect or was it too far afield or too extensive?

A At that time these matters were too far afield. I think I can put it that way. And in part, incorrect. Of course, unintentionally. But I had to make these changes, and I did make them.

Q Witness, if I show you a document in which I should mark off in red the passage that you struck off, would you recognize the passage that you struck off?

A That would be very difficult, and I am not sure that I could.

DR. SERVATIUS: Then I have no further questions.

MR. DODD: I am not clear on this. I don't know whether Counsel is claiming that we have another document, one which we haven't submitted. I don't know of any such. We submitted the only one that came into our possession --

THE PRESIDENT: Have you got that original or is it with --

MR. DODD: There were a number of these made up and they were all signed as originals. The first was the copy made with the typewriter, the others carbon copies. It was a joint British-American team that interrogated the witness and this one copy was turned over to us and we submitted it. That is the only one we have ever seen.

THE PRESIDENT: I see in the certificate of translation it refers to a certificate dated 14-10-45, signed by Captain N. Webb --

MR. DODD: Yes.

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THE PRESIDENT: You will find that at the end of the document, I think.

DR. BALLAS (former Counsel forKrupp von Bohlen): As former Counsel for the Defendant Krupp von Bohlen, I wish to make a statement or explanation.

In the Krupp document, which was --

THE PRESIDENT: Wait a minute. What have you got to do with it? We are now considering the suggestion made by Dr. Servatius that this document which we are now considering --

DR. BALLAS: I am sorry. I didn't quite follow you, Your Honor.

THE PESIDENT: We are now considering the document, D-288. You haven't anything to do with that document.

DR. BALLAS: Yes, Mr. President, it does deal withthis document.

THE PRESIDENT: Wait a minute. What right have youto speak about it? You are only a former Counsel to Krupp.

DR. BALLAS: I want to give an explanation. I want to assist with an explanation. At present I appear for Dr. Siemers, Counsel for Grand Admiral Raeder --

THE PRESIDENT: But how can youhelp us about the framing of the affidavit of this witness by the Prosecution? You can't do anything about that.

DR. BALLAS: I think I can explain the different versions of the document.

This document in the Krupp file, D-288, is a document which is vitally shorter than the document, 288, in the case of Sauckel, which has been submitted by the Prasecution. At that time I called the attention of Dr. Servatius to this divergence and we determined point by point just how far the deviation went. There are two documents -- the original, which was submitted in the Krupp file, which is a diversion from the document whichis being presented in the case of Sauckel.

THE PRESIDENT: But this document was signed by this witness. There may have been some other document signed which was put in the Krupp file but this witness has said that he signed this document. Therefore, it doesn't seem to me that it is material.

DR. BALLAS: It is possible, your Honor. I just wanted to call your

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attention to the fact that there are two different documents under the number, 286.

THE PRESIDENT: Is there any other member of the Defense that wants to ask questions of this witness?

(There were none.)

Then, Mr. Dodd, do you want to re-examine him?

MR. DODD: No, sir -- except that I would like to say with respect to the Tribunal's question concerning this certificate of translation where the name, "Captain N. Webb," appears: I am informed that refers to a certificate which is attached to all British documents, and that is a certificate which goes along for the purpose of the translators. Undoubtedly, that is what it is. However, I will have a search made in the Document Room and clear it up. It is better that way, but my British friends say that is so: they do send a certificate, and the only possible explanation is that it is the certificate, with a mistake in the date. But in any event, I will look into it.

THE PRESIDENT: Has the witness had the original of that affidavit put to him?

MR. DODD: I believe he has. I understood he had the one which is before the Tribunal.

THE PRESIDENT: Has he acknowledged the signature?

MR. DODD: Well, I so understood. I can inquire.

BY THE COURT:

Q Witness, you saw the signature?

A Yes.

Q Is it your signature?

A Yes, it is my signature.

BY MR. DODD:

Q As a matter of fact, I talked to you personally on this matter and you told me that this was a statement you gave. Do you remember that? Do you recall when you and I talked, and you told me this was your statement; you looked it over and read it?

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A Yes.

Q You read English as well as German, don't you? You have some knowledge of English.

A Some knowledge, yes.

BY THE PRESIDENT:

Q Witness, the document is being handed to you. It is in German, isn't it?

A Yes, it is in German.

Q And it is signed by you, is it?

A Yes.

Q Is there any passage in it which you want to strike out of it?

A May I read the document first, your Honor?

Q Yes, you may read it as quickly as you can.

A Yes (reading the document.)

MR. DODD: While the witness is reading the document, I should like to inform the Tribunal that we made a call to the Document Room and have been told by the officer there that there is only one D-288 and this is it; there is no duplicate signed, as Counsel for Krupp stated.

A (Continuing -- answering question put to him) Yes; here there is an alteration which is set down in pencil. That is on page 2. And I struck out that. That was not written down by me.

DR. SERVATIUS: Mr. President, may I submit the document which the Defense Counsel for Krupp received in the beginning? This is an English document, 288 - and the passages which allegedly were crossed off are marked off by me in red. If I am permitted to submit this document, I believe it might assist in the clarification of this matter. In this version there are many strikeoffs.

THE PRESIDENT: Dr. Servatius, that is a different document, as I understand it.

DR. SERVATIUS: Yes.

THE PRESIDENT: We don't need that. We have this document before us, signed by the witness, and we have asked him whether he has anything in it which he thinks did not form part of the original document which he signed.

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A (Continuing further) Then on page 1 it says, "Conditions in all of these camps were extremely bad." I would like to limit this statement --

Q Wait a minute. Witness, we don't want to know whether you think you expressed yourself too strongly. We only want to know whether the document represents the document which you signed -- accurately represents the document which you signed. If there is anything which you want to change now, you can say what it is.

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A The statement as it is before me I would not change in any way.

BY THE PRESIDENT:

Q Just one or two questions I want to ask you. Were prisoners of war employed at Krupps during the time you were supervising those camps?

A Supervising the prisoner of war camps? No, I did not. That is a wrong expression. I received the permission; the prisoner of war camps were under the jurisdiction of the Wehrmacht. I received permission to visit the prisoner of war camps, and they were working for Krupp.

Q Were any of the people who were working at the camps which you mentioned in this, prisoners of war?

A At the Hoegstrasse.

Q Prisoners of war were working there, were they?

A Yes.

Q Krupps.

A For the Krupp Works, yes.

Q What sort of work was it?

A Those things were not under my jurisdiction. It depended on their trade. There were many auxiliary workers but I am not able to give you any details for I was not concerned with these matters. I was only active in my capacity as a doctor and had my commitment with the people in that capacity only.

THE PRESIDENT: Very well.

MR. DODD: Mr. President, I have found that certificate and it is as I described it for the Tribunal, and it is a certificate by Captain Weber of the British Army service and that he received a copy of this document from the American team; and signed by him, Captain H. Weber, IMT Corps, British Army, European sector.

THE PRESIDENT: Is that your case then, Dr. Servatius?

DR. SERVATIUS: Yes. There are two more witnesses, Biedermann and Mitschke. I will dispense with both of those witnesses, Your Honor.

Then there is lacking affidavits, interrogatories, by Dr. Voss, Dr. Scharmann, and a witness by the name of Marnbach, and the witness Letsch who was an expert worker in the office of Sauckel. We have received

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interrogatories from the witnesses from the witnesses Darre' and Seldte but these have not been translated as yet. I shall submit them as soon as they have been translated then.

THE PRESIDENT: Very well.

DR. SERVATIUS: Then I am concluding my case.

THE PRESIDENT: Now, Counsel for the Defendant Jodl.

DR. EXNER: My Lords Justice, with your kind permission I should like to present my case in the following manner: First of all, to call the defendant Jodl to the stand. And as far as my documents are concerned, all except one will be used during his testimony in chief, on which occasion I shall submit them to the High Tribunal.

Then I will not need to bore the High Tribunal with lengthy reading. I have three document books which are in uniform order, U-1, U-2, 3, in continuous order; and I shallquote the page in each case, which in the case of the translation is found in the upper left-hand corner of the translation, and that is the page of the original. I am sorry to say that the documents are not contained in the order in which I shall read them, and this is due to the fact that they were received too late, and for other reasons as well.

Several question interrogatories of one of the important witnesses is lacking and I hope that I shall be able to make up for this lack. I was granted the use of five witnesses but I shall forego the testimony of one of these witnesses. The four remining witnesses will take up but little time in their testimony.

Now, with the kind permission of the High Tribunal, I should like to call the Defendant Jodl to the witness box.

ALFRED JODL, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name?

A Alfred Jodl.

Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath).

THE PRESIDENT: You may sit down.

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DIRECT EXAMINATION

BY DR. EXNER:

Q General, in the English-American trial briefs it says that you are sixty years old. That is a mistake. You attained the age of 56 the other day, for you were born when?

A I was born 1890 on the 10th of May.

Q You were born in Bavaria, and both of your parents are descendants of old Bavarian stock; you are a professional soldier; and what was the chief reason for your choice?

A A great grandfather of mine was an officer; my father was an officer; an uncle was an officer; my brother was officer; my father-in-law was an officer; and then I can say that the profession of a soldier was in my blood.

Q And now I should like to hear something about your political attitude and conviction. Which of the political parties which existed in Germany before 1933 were you closest to spiritually?

A The entire party politics was very, very far from my thoughts, because I was an officer, and especially in the offshoots of the post-war period as the parties existed then, if I look at the background from which I came, the attitude and convictions of my parents, I can say that I would be closest to the National Liberal Partyand their convictions and opinions. In any event, my parents never voted any other ticket except the National Liberal one.

Q Tell us, please, what was your position, your attitude on the Weimar Republic.

A I served the Weimar Republic unreservedly and true to my oath, without reservation; and if I could not have done that I would have asked for my resignation. And at any rate, we southern Germans were interested in a democratic regime and in a constitution. This regime was nothing strange to us spiritually, for even our monarchies were democratic.

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Q And such was your relationship to von Hindenburg?

A I knew von Hindenburg. I had been assigned to him after his first election to the vice-presidency when he spent his first leave in die tramszell. Then again, I was together with the leaders and Field Marshal von Mannstein. I was with the Hindenburg family for one day on their Estate Neudeck.

I can say briefly that I admired him; and when he was elected vice-president for the first time, I considered that the first symptom of the second rise of the German people.

Q What was your connection with the National Socialist Party?

A The National Socialist Party I hardly knew and hardly noticed before the Munich Putsch. On the occasion of this Putsch, the Reichswehr was per force drawn into this inner political development. At that time, with few exceptions, it met the test of obedience. And after this Putsch, there was a certain dissension in the attitude of the officer corps. There were various opinions about the worth or non-worth of Hitler. Before and after, I was very, very sceptical, completely sceptical, reserved and rejectant. I was pacified only when at that time Hitler, at the Leipzig law suit, gave the assurance that any differentiation of the Reichswehr would be rejected by him.

Q Did you attend meetings where Hitler spoke?

A No, never.

Q Can you tell us, please, which leaders of the party you knew? That is, before 1933.

A I knew only those who had previously been officers: for example, Epp, Huehnlein and Roehm. But I had no connection, or anything like that, with them after they had left the Reichswehr. I had lost touch with them.

Q Before the assumption of power, had you read the book "Mein Kampf"?

A No.

Q Did you read it later?

A I read parts of it later.

Q What was your opinion on the Jewish question?

A I was not anti-semitic. I am of the opinion that no party, no state, no people, and no race, not even cannibals, per se are good or bad in themselves, but only the single individual. Of course, I knew that Jewry, after

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the war and in the symptoms of moral disintegration that appeared after the first world war, appeared in a very provoking manner in Germany. And that was not anti-semitic propaganda; those were facts, and those facts which were regretted very much by Jews themselves. It is like that. Any means of outcasting them and any excesses, any of these measures taken by the state were rejected very intensely by me.

Q The prosecution asserts that all the defendants have cried, "Germany awake. Death to Jewry."

A As far as I am concerned, that assertion is wrong. At every period of my life I associated with Jews individually.

THE PRESIDENT: You can go on now.

BY DR. EXNER:

Q Please continue.

A I was a guest of Jews, and some Jews had entry into my home. But those were the Jews who knew and recognized their fatherland. They were Jews whose human value was indisputable.

Q Did you on occasion use your influence for Jews on behalf of Jews?

A Yes, that too.

Q Did you know that the government in the year 1932 tried to overthrow the government, and that they could sort of redeem themselves in that way?

A I knew that well; for at about that time, when I came to Berlin, in the later operational division, I did not find any preparations for war; but I found preparations for the use of the Reichswehr in the interior of the country. And that use of the Reichswehr was to be against the extreme leftists as well as the extreme rightists. But there were maneuvers of some sort which took place in this connection, maneuvers in which I myself participated.

Q What was your attitude on the appointment of Hitler to be Reichs-chancellor in the year 1933?

A The appointment of Hitler to be Reichschancellor was a complete surprise to me. And the next evening, when I was returning home with a comrade, through the rather excited crowd, I said to my friend, "This is more than a change of government; it is a revolution. Just how far it will lead us we do not know."

But the personality of Hindenburg, who had legalized this revolution,

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and the names of such men as von Papen, von Neurath, Schwerin Krosigk exerted a soothing influence on me and gave me a certain guarantee that there would be no revolutionary extremes.

DR. EXNER: At this point, I should like to read a part of the testimony put down by General von Vormann. This is page 208 of the third volume of my document book. I should like to call the attention of the Tribunal to the fact that the page number quoted by me is to be found in the upper left hand corner, "Page 208 of the original"; and I should like to submit this document in the original.

This document deals with 1933. At that time Jodl was in the Group Command, and Vormann was a member of his unit (Gruppe). Under Figure 2, I shall read:

"Jodl, at that time Major with the General Staff, was my Group leader in 1933. He finally followed in the tracks of the then Chief of the Army Command, General von Hammerstein, and rejected Hitler and the Party altogether."

I shall now skip a few lines; they are not relevant. Then in the center of the page, I shall continue:

"When on 30 January 1933 Hitler was called as Reich Chancellor, Jodl was dismayed and astonished. I clearly recall that on the 30th or 31st of January, upon his request, I had to calltogether the officers of his unit (Gruppe) for a conference. At this conference he explained; Hitler has been called to the head of the Reich according to the existing constitution and the laws in effect. It is not for us to bring criticism concerning this, particularly criticism of the behaviour of the Reich President and Field Marshal von Hindenburg. We must obey and do our duty as soldiers. Criticisms in the former manner of the new measures of the new chancellor are not to be made in the future, for they are inconsistent with his and our own position.

"His entire speech showed great worry and apprehension for the coming development of the situation"; and so forth.

THE PRESIDENT: Dr. Exner, this would be a convenient time to break of

(A recess was taken until 1400 hours).

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AFTERNOON SESSION

(The hearing reconvened at 1400 hours, 3 June 1946)

THE PRESIDENT: Now, Sir David, you were going to show these applications.

SIR DAVID MAXWELL FYFE: Yes, My Lord.

I wonder if I might leave, for the moment, No. 1, which my friend General Rudenko will deal with because he will deal with another one, and if I might deal with the ones with which I am dealing?

THE PRESIDENT: Yes.

SIR DAVID MAXWELL FYFE: The second one is on behalf of Defendant Kaltenbrunner and is an application to cross examine three witnesses whose affidavits were used by the prosecution. The first is Tiefenbach, and he dealt with conditions at Mauthausen; the second, Kandruth, who dealt with the same subject; the third, Strupp, dealt with the reception of orders from the Defendant Kaltenbrunner by Strupp as SS and Polizei Fuehrer in Warsaw. The prosecution submits that in these cases cross examination by way of interrogatories would be sufficient. Next, I don't know if--

THE PRESIDENT: Interrogatories are all they asked for, certainly in the case of -- in all three.

SIR DAVID MAXWELL FYFE: We will have no objection to cross interrogatories so long as they are not brought here as witnesses.

My Lord, the next application is on behalf of the Defendant von Neurath to use M. Francois Poncet as a witness. The prosecution will be grateful if the Tribunal would allow that to stand over for a day or two, as my French colleagues are awaiting instructions from Paris at the moment and they have not got a reply yet. I don't think it will prejudice the Defendant von Neurath's case. It will be time for a reply before there is any difficulty as to time.

Then, My Lord, the next is an application on behalf of the Defendant von Schirach. I think that all that is now wanted is to use an affidavit from Dr. Otto Wilhelm von Volcano. The affidavit is twelve pages long and is a highly academic statement on the educational philosophy underlying the Adolf Hitler schools. The prosecution feels that thematter has been thoroughly covered by the Defendant von Schirach himself and also by

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his witnesses, Hoepken and Lauterbacher, and they feel that the affidavit would be cumulative and repetitive. But of course it is an affidavit; it is not a question of an oral witness, and if the Tribunal feels that they ought to have it, the prosecution does not wish to press their objection unreasonably.

THE PRESIDENT: Has the affidavit been translated yet?

SIR DAVID MAXWELL FYFE: Well, I have certainly got an English -- I have read the English translation of it, My Lord, so I assume that it has been translated into theother languages.

I have next, My Lord, the applications from the Defendants Hess and Frank to put an interrogatory to General Donovan. If I may put the objection quite shortly, that raises the same point as the application, on the 2nd of May, 1946, for Mr. Patterson of the United States War Department, and the objection of theprosecution is the same as I made on that occasion, that when you are cross examining a witness as to credibility you are bound by his answer and should not, in the opinion of the prosecution, be allowed to call evidence to contradict him. So it is on exactly the same point, the relationship between the Witness Gisevius and the United States Office of Strategic Services.

The next application is on behalf of the Defendant Speer for the approval of certain documents which are in his possession. The prosecution has no objection to the application. They reserve the right to make any individual objection when the documents are produced at the trial.

My Lord, the next is a purely formal application on behalf of the Defendant Jodl, whose case is now before the Tribunal, to use an affidavit of Dr. Lehmann. There is no objection to that.

Next is the application on behalf of the Defendant Hess--

THE PRESIDENT: Sir David, that application we have already heard. We have heard the arguments for that in full and the Tribunal will consider that.

SIR DAVID MAXWELL FYFE: If Your Lordship pleases.

Then I think that only leaves an application of the Defendant Keitel for the use of a decree of Hitler of the 20th of July, 1944, and the prosecution has no objection to that.

My Lord, I think I have dealt with every one except the first one, which my friend, General Rudenko, will deal with, the application of the Defendant Goering.

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GENERAL RUDENKO: Members of the Tribunal, the Soviet Prosecution has several times expressed its view respecting the application of Defense Counsel to call witnesses in regard to the mass shooting by Fascist criminals of Polish officers in the forests of Katyn. Our position is that this episode of the criminal activity on the part of the Hitlerites has been fully established by the evidence presented by the Soviet Prosecution, which was a communication of the Special Extraordinary State Commission investigating the circumstances of the mass shooting by Hitler Fascist aggressors in the Katyn forests of Polish officers prisoners of war. This document was presented by the Soviet Prosecution under the Number 54 on 14 October 1945, and it was admitted by the Tribunal and, as provided by Article 21 of the Charter, is not subject to argument.

Now the Defense Counsel once again is putting in an application for calling of three supplementary witnesses -- a psychiatrist, Stockert, a former adjutant of the Pioneer Engineers Corps, and a special expert of the staff of the Army Group Center.

We object to calling these three witnesses to the sessions for the following reasons:

Calling of the psychiatrist Stockert as a witness should be considered as absolutely unreasonable since the Tribunal cannot be interested in the question of in what manner the conclusion of the commission was drawn -- a conclusion which was published in the Hitler Whitebook. No matter in what way this conclusion was drawn, the fact of the mass shooting by Germans in the Katyn forest has been absolutely established by the Extraordinary State Commission.

Stockert himself is not a doctor of legal medicine but is a psychiatrist who was a member of the Hitler Commission, not on the basis of his competence as far as medical science is concerned, but as a representative of the German Fascist military high command.

The former adjutant Inckert himself is a participant in the crimes of Katyn forest, having been a member of the Pionner Engineers Unit which carried out the executions, and since he is an interested party, he cannot give any objective evidence on this matter.

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Third, an expert of the staff of the Army Group Center, Eichhorn, also cannot be admitted as a witness because he, in general, did not know anything at all about the camp of the Polish prisoners of war, and Eichhorn in general could not have known what all the facts pertaining to the matter were. The same reasons apply to his potential testimony on the fact that the Germans have never perpetrated any mass shooting of the Polish people in the region of Katyn. Moreover, Eichhorn cannot be considered as an objective witness.

Regardless of these objections which express the opinion of all Prosecutors, the Soviet Prosecution especially emphasize the fact that these bestial crimes of the Germans in Katyn were investigated by the special, authoritative State Investigating Committee, which went into all the details, and the result of this investigation has established the fact that the crimes in Katyn were perpetrated by Germans and that they really are only one link in the chain of many bestial crimes which were perpetrated by the Hitlerites, a great many proofs of which have previously been submitted to the Tribunal.

For the reasons expressed by me, the Soviet Prosecution categorically insists on the denial of the application of the Defense Counsel.

THE PRESIDENT: Counsel for Kaltenbrunner, Sir David was right, was he not, in saying that you were only asking for cross-interrogatories, which the Prosecution do not object to?

DR. KAUFMANN (Counsel for Kaltenbrunner): Mr. President, I have no objections to questionnaires, but then I would ask that these witnesses be heard in my presence outside of this Courtroom, and then, on the basis of this questioning, the questionnaire can later be submitted.

THE PRESIDENT: But are the witnesses here?

DR. KAUFMANN: Mr. President, I do not know.

THE PRESIDENT: We granted interrogatories, and you now ask for cross-interrogatories; that is all you ask for, and that does not involve bringing the witnesses here at all.

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The cross-interrogatories will be sent to them; they will answer them. If, for any reason, on the cross-interrogatories being answered, you want to make further application, you can always do so.

DR. KAUFMANN: The rule of the Court so far was, as I understood it, that I have the right to cross examine in this room, if the Prosecution submits affidavits of these witnesses here. That has so far been the ruling of the Court.

THE PRESIDENT: I think it depends on what the substance of the affidavit is. If it is a matter of importance, no doubt we -- We have never made any general rule, but we have generally allowed the witness to be brought here for cross examination if the matter is of importance, but if the matter is of less importance, then we have very frequently directed that there should be cross interrogatories.

DR. KAUFMANN: May I add to this last sentence? I consider this testimony extremely important. The Court will probably know the contents.

THE PRESIDENT: Again, in your application, you say that three interrogatories were used by the Prosecution on the understanding that the deponents would be subject to cross interrogation. That means, I suppose, cross-interrogatories. It does not say cross examination; it says cross interrogation. Do you want to have them brought here for cross examination?

DR. KAUFMANN: That is what I had intended, unless my first suggestion is accepted. My first suggestion is simpler, in my opinion, and it would save time if I were allowed to be present at the questioning of the witnesses outside of this room.

THE PRESIDENT: Well, we understand your point of view, Dr. Kaufmann, and we will consider it.

DR. KAUFMANN: Thank you.

DR. STAHMER (Counsel for defendant Goering): May I make a brief statement on General Rudenko's statements?

General Rudenko wants to strike out my application for evidence, referring to Article 21, I believe, of the Charter. I do not believe that this regulation would oppose an application. It is true that government reports are evidence.

THE PRESIDENT: Dr. Stahmer, I think the Tribunal has already ruled that

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that Article does not prevent the calling of witnesses, but General Rudenko, in addition to an argument based upon Article 21, also gave particular reasons why he said that these particular witnesses were not witnesses who ought to be called. He said that one of them was a psychiatrist, and the other one could not give any evidence of any value. We should like to hear you upon that.

DR. STAHMER: In the minutes submitted by the Soviet Union, the charge is made that members of the staff which was stationed near Katyn carried out the execution of these Polish officers. They are mentioned by name, and I am bringing counter evidence--members of the same staff-- to prove that in the whole time that this staff was stationed there, no killing of Polish officers occurred. I believe that it is pertinent evidence. One cannot eliminate a witness by saying that he was involved in the act. In the first place, this is not a settled question, and it is not mentioned in the Protocol.

In addition to that, I consider it impossible to eliminate a witness by saying that he committed the deed. That is what is to be proved by the evidence.

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THE PRESIDENT: About the psychiatrist, was he a member of the German Commission?

DR. STHAMER: Yes.

THE PRESIDENT: He was a member of it?

DR. STAHMER: Yes. At that time he was present, and he ascertained from the corpses that the shooting must have been carried out at a time before the occupation by the Germans.

THE PRESIDENT: But he doesn't actually say in the application that he was a member. He said he was present during the visit of the Military Commission; he knows how the resolution of the commission was produced.

DR. STAHMER: I do not believe that he was an appointed member, but he took part in this inspection. As far as I know, he was a regimental doctor in some regiment nearby.

THE PRESIDENT: Very well, we'll consider your argument.

Then, is the counsel for von Neurath agreeable that that matter should stand over? Is counsel for von Neurath here? He is not here? Very well then, we'll consider that.

Then, counsel for the defendant Schirach, do you wish to say anything in answer to what Sir David said?

DR. NELTE: (Counsel for the defendant Keitel): My colleague Dr. Sauter asked me, if necessary, to represent the interests of the defendant von Schirach.

As to the statement of Sir David, I have only to say that according to the opinion of the defendant von Schirach, the witness von Wakano who made and signed this affidavit, makes statements on a number of points on which Mr. von Schirach did not speak when he was examined as a witness. I therefore ask the court to examine this affidavit to that end, as to whether there are not individual points important for the defense of von Schirach, and then to decide on admitting it.

THE PRESIDENT: Then does counsel for the defendants Hess and Frank want to say anything about the application for an interrogatory to General Donovan? Dr. Seidl, we have already heard the argument about it.

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DR. SEIDL: I have nothing to add to the argument which I have already made on the application. My first application, to get information from the War Department, was decided upon. It has not yet been decided, however, to submit a questionnaire to Secretary of War Patterson.

THE PRESIDENT: Very well, the matter will be considered. There was no objection to theother three applications, so it is unnecessary to hear argument. Then the Tribunal will consider all these matters.

Now, Dr. Exner. Dr. Exner, if it is convenient to you personally, the Tribunal thinks that you might go a little bit faster in your speech through the earphones.

ALFRED JODL -- Resumed
DIRECT EXAMINATION -- Continued

BY DR. EXNER:

Q. Before the recess, we heard what you told your officers when Adolf Hitler became the head of the government. Now I should like to hear what you felt about the appointment of Hitler as head of the state in 1934.

A. The union of the two offices in one person gave me much concern. When we lost Hindenburg, we lost a man in the Wehrmacht, and the whole German people loved the Field Marshal. But what we received with Hitler, we did not know. It is true, the result of the popular election was so overwhelming that one could say that a higher law than this popular will could not exist. Then, we soldiers had every right to take the oath to Adolf Hitler.

Q. The Prosecution speaks of your close relationship with Hitler. When did you learn to know Adolf Hitler personally?

A. I was presented to the Fuehrer by Field Marshal Keitel, in the command train on the 3rd of September 1939 when we were going to the Polish eastern front. On that day I spoke my first word to him.

Q. Two days after the outbreak or war?

A. Two days after the beginning of war, yes.

Q. Did the Fuehrer have confidence in you?

A. That came about very slowly. The Fuehrer had a certain distrust of all general staff officers, especially of the Army. In this years, he was, in general, quite skeptical towards the Wehrmacht.

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I may, perhaps, quote a statement of his which was overheard:

"I have a reactionary army, a Christian" -- sometimes he said "an imperial" -- "navy, and a National Socialist air force."

The relationship between him and me was very varied. Until about the end of the campaign in the West, there was considerable reserve. Then his confidence in me increased until August 1942.

Then, the crisis arose and his relationship to me was decisively unfriendly. That lasted until the 30th of January 1943. Then, the relationship improved and was especially good, especially trusting after the Italian betrayal in 1943 had been warded off. The last years was characterized by numerous altercations.

Q To what extent did the Fuehrer confide in you regarding his political intentions?

A Only to the extent that we needed to know them for our military work. Of course, for the military work of the Chief of the Wehrmacht Operational Staff, a little more was necessary than for a battalion commander, for politics is part of strategy.

Q Did he permit discussions of political questions between himself and you?

A Discussion of political questions was impossible for soldiers in General. One example is especially characteristic. When I reported to the Fuehrer in September 1943 that Facism was dead in Italy, the streets were full of Party insignia in Rome, he said, and I quote; "Such nonsense could only be reported by an officer. One sees that generals don't understand politics." That after such remarks the desire for any political discussions was slight, can be readily understood.

Q Were political and military questions kept sharply separated?

A Yes, they were kept sharply separated.

Q And were you consulted on military matters or not?

A Consultation on military questions depended entirely on the circumstances at the moment. At a time when he himself was filled with doubts, he often discussed military problems for weeks or months, but if he was clear in his mind, or if he had formed a spontaneous decision, all discussion came to an end.

H0147 -0054

H0147-0055

Q The system of secrecy of ten has been discussed here. Were you also included in this secrecy?

A Yes, to an extent which I have just begun to realize during this trial. All of the events and occurrences at the beginning of the war when the other countries had made efforts to prevent this war, Hitler informed us of these events only to the extent that they were in the press. He spoke to the politicians and to the party and in an entirely different manner from the Wehrmacht, to the SS differently again than to the Wehrmacht and to the politicians. Secrecy about the destruction of the Jews, about the events in the concentration camps was a masterpiece of secrecy, and it was a masterpiece of deception by Himmler, who showed us soldiers photographs especially about these things and told us stories about the gardens and plantations on Dachau; about the ghettos in Warsaw and Theresienstadt, and gave us soldiers the impression that they were highly humane arrangements.

Q Did not news reach the higher headquarters from outside?

A The Fuehrer's headquarters was a mixture between a cloister and a concentration camp. There were no wire fences and no barbed wire surrounding it. There were outposts on the roads leading to it to safeguard it and this was called Sperrkreis I. Constant passes to enter this Sperrkreis I were not even given to my staff, only to General Warlimont. Every guard had to stop each officer whom he did not know. Into this holy of holies, aside from reports on the situation, only very little news from the outer world penetrated.

Q But what about foreign papers and radio reports?

A Foreign papers we stutied very carefully and the illustrated American and English papers gave us very good information on new weapons. The foreign news itself was received by the civilian press at headquarters and censored. I received only what was of military interest. To all internal polotical police, all reports on the situation were forbidden.

Q How did your cooperation with the Fuehrer take place?

A Every day I made at least two reports on the situation. It was established at one time that I took part in 119 talks or conferences. I took part in far more than five thousand. These discussions of the situation and reports on the military situation was at the same time as the issuing of orders, and on the basis of the reports or events, the Fuehrer

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decided immediately what orders were to be given for the next few days. I worked in such a manner that when my report was finished I went into the next room. There I immediately drew up the teletype messages and orders for the next few days, and while the report on the situation was still going on I read these drafts of these messages to the Fuehrer for his approval. General Warlimont then took them along to my staff where they were sent off.

Q Were you also present in political talks?

A May I answer with this explanation - that many things which were discussed in these reports on the situation I did not hear. The same is true of Field Marshall Keitel who worked in a similar manner.

Q Were political matters also discussed in the discussions of the situation and to what extent were you present in discussions of a political nature?

A As I have already said political problems were discussed to the extent that they were necessary for our military work. On occasions when politics and the conduct of the war conincided, the Reich Foreign Minister was present and problems were discussed which lay on the border of politics and the conduct of the war. At the exclusively political talks with foreign neutral or allied politicians or with the Reich Foreign Minister I did not take part. I did not even take part in the discussions on the organization, on armament and administration of the occupied territories, but the purely military discussions of the situation in which I had to take part often lasted up until six or eight hours a day. The time I had left then I really needed for my work.

Q It has often been stated here that it was impossible to contradidt the Fuehrer, did you have any success with objections?

A One cannot say it was absolutely impossible to contradict him. Many, many times I contradicted him strongly, but there were moments when one actually could not answer a word. In many cases I induced the Fuehrer to desist from many things to which I objected.

Q Can you give an example?

A There were a number of operational questions which do not interest the Court, but in the field which interests the Court, there was, for example, the violation of the Geneva Convention. I prevented that. I objected to that.

H0147-0057

Q Were there other possibilities to influence Hitler.

A If it was not possible to openly contradict him to prevent something, which according to my convictions I had to prevent, there was still the means I often took, the means of delaying tactics, a kind of passive resistance. I delayed work on the matter and waited for a psychological moment to bring the matter before Hitler again. This procedure was often successful, for example, in the case of the intention to turn certain low level fliers over to lynch justice. It had no success in the commando order.

Q We will speak about these things later. The witness Gisevius said, in answer to questions of the Prosecution, that Jodl had a key position with Hitler. Do you know this witness by sight, or have you heard of him in any other way?

A I do not have this honor. I heard the name of this witness for the first time here and I saw him here in the Court for the first time.

Q In what way could you influence Hitler?

A It is clear that I could only give the Fuehrer an extract of events.

Q What do you mean in your explanation to make sudden decisions?

A I, of course, was not present for parts of the evidence, it may be that the witness meant that he was mistaken, but if he meant that he kept from the Fuehrer atrocities committed by our own Wehrmacht or atrocities committed by the SS, that is false.

H0147-0058

How would that witness know about it? On the contrary, any report of that kind, I immediately reported to the Fuehrer, and no one could have stopped me from doing so. I will give examples:

An affidavit was read here by Rittmeister Scheidt. He testified that Obergruppenfuehrer Fegelein told the Chief of the General Staff, Guderian, and Jodl of atrocities of the SS Brigade Kominski in Warsaw. Ten minutes later I reported this fact to the Fuehrer and he immediately ordered the dissolution of this Brigade. When I heard from the American Radio through my press chief of the shooting of 120 American prisoners near Malmedy, immediately on my own initiative through the Commander-in-Chief I had an investigation started, then to report the result to the Fuehrer. When unimaginable horrors of the Ustascha company in Croatia came to my knowledge I reported this, too, to the Fuehrer immediately.

Q I should like to interrupt you a moment. In your diary PS-1807, you write, on the 12th of June, 1942 -- page 119, Second Document Book: "The German field police disarmed and arrested an Ustascha company in Eastern Bosnia." I should like to add that this is noteworthy, since this Ustascha company was something like an SS group in Croatia and was fighting on the German side. Because of the atrocities the German field police arrested this Ustascha company. "The Fuehrer did not approve of this order of the commando 708th Division, as it undermined the authority of the Ustascha on which the whole Croation State was founded. This was bound to have a more harmful effect on peace and order in Croatia than the unrest of the population created by the atrocities." This was the incident of which you were thinking just now?

A Yes.

Q Have you another example?

A After the issuing of the commando order I reported violations of international law by the enemy to the Fuehrer only when he would have heard of them by other means. Cases of commando undertakings, capture of commandos, I reported only when I had to assume with certainty that he would hear it by other means, in another way.

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In this connection I did try to put a bar up against new spontaneo decisions.

Q Was it possible to influence Hitler, block Hitler off

A I can only say, unfortunately not. There were many ways in which the Fuehrer could learn about military matters, as well as others. Everybody and every agency could report to the ad jutant directly. The photographer sent out by the Fuehrer to take pictures at the front found it expedient on this occasion to repor to the Fuehrer on military matters. When I objected to this, the Fuehrer answered, "I don't care from whom I hear the truth; the main thing is that I hear it."

These reports, however, were not reports of atrocities but just the opposite; and unfortunately, in many ways hostile to the Wehrmacht, reports against the correct and chivalrous attitude of the Wehrmacht reached the Fuehrer. It was these reports which brought about these decisions for brutal proceedings. Much damag would have been avoided if we soldiers had been in a position to keep this information from the Fuehrer.

Q What role did Canaris play in this connection?

A Canaris saw the Fuehrer dozens of times. Canaris could report to him what he wanted and whatever he knew. It seem to me that he knew much more than I, who was concerned exclusivel with the operational conduct of the war. But he never said one w He never said one word to me, and it is quite clear why. This wi ness, this man who is now dead, had the very best understanding w Himmler and with Heydrich -- and he needed that, so that they wou not become suspicious of this nest of conspirators.

Q This same witness, Gisevius, said much about putsch intentions. Did you know anything about that?

A I never heard anything of any putsch, or putsch inte tions.

Q At any time before or during the war would you have considered a putsch possible?

A The witness spoke of putsches as washing one's hand

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That proves to me that he never had any serious thought about it, that he never thought about it seriously. The results of the Kapp putsch in 1921, the Hitler putsch of 1923 are well-known. If more proof is necessary, there is the result of the 20th of July. At that time no one hoped for victory in the true sense of the word. Nevertheless, in this putsch -- in this attempt -- not one soldier, not one weapon, not one worker, rose up. All the members of the attempted putsch were alone. In order to overthrow this system, a revolution would have been necessary -- a mightier, a bigger revolution than the National Socialist one. And behind such a revolution there would have to be the mass of the workers and the whole Wehrmacht, and not the commander of the Potsdam garrison, of whom the witness spoke.

But how one can wage a war with other countries, for existence, and at the same time carry on a revolution and expect to gain anything positive for the German people, I do not know. Only geniuses who live in Switzerland can judge that. The German Wehrmacht and the German officer were not trained for revolution. Once the Prussian officers struck the ground with their sabres -- that was the only revolutionary deed of the Wehrmacht that I know of. That was in 1848. If today people who cooperated actively in order to bring Hitler to power, who had a part in the laws which we soldiers with our triple oath were bound to support, and to Hitler -- if these people demanded revolution and mutiny from the Wehrmacht, when they didn't like the man any more, when reverses occurred, then I can only call that immoral.

Q Was there a tension and crisis in your relationship with Hitler? You have already said something in that connection.

A I could write a book about that more easily than give a brief answer. I should only like to say that aside from many moments my life in the Fuehrer's headquarters was a martyrdom for us soldiers. It was not a military headquarters; it was a civilian one. And we soldiers were guests there. It is not easy to be a guest anywhere for five and a half years. I should like to add just one thing: Among the few officers who dared to face the Fuehre

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openly in a tone, in a form, that made the listeners hold their breath during a catastrophe -- among these few officers was myself.

Q Give us an example of such an incident in your relationship with Hitler.

A The worst crisis was in August, 1942, in Vinizza, when I opposed Generaloberst Halder because of unjustified opposition. It was an operational problem, which won't interest the Court. Never in my life did I experience such an outbreak of anger from any human being. From that day on, he never appeared to eat at the common meal, never for the duration of the war. The report on the situation no longer took place in my map room but in the Fuehrer's shelter. At every report on the situation from that day on, an SS officer took part. Eight stenographers were order to be there. From that day on, they took down every word. The Fuehrer refused to shake hands with me any more. He hardly greeted me. This condition lasted until the 30th of January, 1943, when he told me through Field Marshal Keitel that he could no longer work with me and I would be replaced by General Paulus as soon as Paulus had taken Stalingrad.

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Q Did you yourself not try during this time to be released from the OKW?

A During all this time every third day I asked General Schmundt to see to it that I might be sent to Finland with the mountain troops in Finland, but this did not happen.

Q The Prosecution has asserted that you found yourself in the grace of the Fuehrer and that the Fuehrer poured out his favor on you. What is true in that?

A I do not need to waste many words on that. What I said is the truth. What the Prosecution said I unfortunately have to say is imagination.

Q It was said that you were a career soldier. How about that?

A If the Prosecution means that as a so-called political soldier I was promoted especially quickly, they are mistaken. I became a general in my fiftieth year. This is quite normal. In July 1940 when I was appointed General of Artillery it is true I skipped a grade of Lieutenant General, but that was only a coincidence. A much younger general of the Air Force, Jeschonek, has become Chief of the General Staff, on the Luftwaffe and become General of the Luftwaffe. I was told the Fuehrer thought that might hurt my feelings. Then shortly before the Reichstag session the Fuehrer decided to promote me to General of Artillery. This Jeschonek who is much younger than I became Colonel General much sooner than I. Zeitzler, who was formerly my subordinate, became Colonel General at the same time I did.

THE PRESIDENT: I think we will break off.

(A recess was taken.)

THE PRESIDENT: We will adjourn this afternoon at 4:30.

BY DR. EXNER:

Q Just before the recess we were discussing in how far you received the favor of the Fuehrer, and so far as you mention, it wasn't more than average. Did you receive any decorations from Hitler?

A I received, surprisingly, from the Fuehrer when the Vinizza crisis was concluded on the 30th of January 1943, I received the Golden Party Emblem; and that was the only decoration which I received from the Fuehrer.

Q In the entire 5½ years of war?

A Yes.

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Q Did you receive a gift or donation from Hitler, or from the Party?

A Not a cent; not a button. I can mention the fact that in the Fuehrer headquarters we received from the Fuehrer at Christmas time a package of coffee.

Q Did you receive or buy any estates or receive them as a souvenir or gift in the occupied countries?

A Not one piece. In the indictment in a rather summary manner the sentence is set down: "the defendants profited and aggrandized themselves from the occupied countries." I can say as far as I am concerned I can characterize my position with one word, and I can say this openly: This is the libel of a decent German officer.

Q During the period of war you saved some of your pay as a soldier, as an officer. How did you invest this money? Can you tell me?

A My entire saving which accrued --

THE PRESIDENT: He said that he couldn't save a penny. He has not yet been cross-examined about it.

DR. EXNER: Very well.

BY DR. EXNER:

Q During the entire period of the war you were together with Hitler and therefore you must really know him very well, and therefore I should like to ask you a little more in detail about the personality of theFuehrer; but the Court is not very fond of repetition. Therefore, tell us, but briefly, what influenced you in Hitler and what did you like especially well and what were the things you disliked.

A Hitler was a leader; he had a leader's personality, and a leader's personality of tremendous scope. His knowledge and his intellect and his sense of rhetoric and his will power, all of these qualities in the last analysis triumphed in every spiritual conflict; and this applied to everyone, every person. In a very strange way, in him, logic and forecast were mixed in with his thought. Scepticism was mixed with a very intensive power of imagination, and this power of imagination very frequently foresaw the things to come, but very frequently were wrong. I marveled at him when in the winter of 1941 to '42 in his firm belief and with his energy he brought to a standstill the vacillating eastern front. At this time on the eastern fron a catastrophe was imminent, to compare with that in the year 1812.

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His life in the Fuehrer headq arters wasnothing but duty and work. The modesty in his manner of life was very impressive. There was not one day which, during this war --

THE PRESIDENT: (Interposing) One moment, As you said, Dr. Exner, the Tribunal has had to listen to this sort of thing over and over again alread . We are not interested in it.

BY DR. EXNER:

Q Perhaps you can tell the High Tribunal something which it has heard less frequently, which you disliked in the personality of Hitler.

THE PRESIDENT: I do not think that, put in that general way, it is of any interest to the Tribunal, wha e disliked in Hitler. I mean, can't he get on with his own case?

BY DR. EXNER:

Q Did yo have the feeling that you were close to the Fuehrer?

A No, in no way at all.

Q And your connections with the Fuehrer were essentially official?

A Yes, purely official. I did not belong to his private, or personal, circle; and he did not know any more about me than that my name was Jodl, and because of my name, that I pro ably came from Bavaria.

Q Who belonged tothe private inner-circle?

A Chiefly the "old guard" f om the told time, when the party was beginning: Dormann, first of all, the old secretaries, his personal physicians, and the political, or SS adjutants.

Q Your Gauleiter was used by theprosecution to prove that you were an enthusiastic follower and adher nt of the Fuehrer. Tell us, how did you actually receive this characteristic?

A This report was asked for by Bormann from the Fuehrer, and the Fuehrer ordered it. Even though I reluctantly made this report, chiefly because of lack of time. But generally that was the wish in this period of crisis.

Q And when was this report, or this speech? When was it? About?

A In November 1943. The Italian decline had preceded it. It was the time of the serious bombing attacks. In this period of time, there was the conceivable necessity to have the political leadership at home shown a

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completely unembroidered picture of the situation, but at the same time, to create a certain amount of confidence at home and to have this confidence rest with the higher leadership.

This speech, which had the title, "The Strategic Situation of Germany at the Beginning of the Fifth Year of the War" could actually not be made by a Block leader. A speech like that could only be made by an officer of theWehrmacht leadership staff, the operational staff. And that is the background of this speech, given by me.

Q What were the contents of this speech?

A The contents, as I have already said, were an overall picture about the strategic situation. Here, before the High Tribunal, only the introduction was read; and the introduction paints a picture in retrospect about those things which were behind us, but not from the political point of view, rather from the strategic angle.

I pictured the operational coercion, so to speak, for our operations for so-called wars of aggression. In no way did I identify myself with the National Socialist Party; but as is quite for an officer of the General Staff I identified myself with my Supreme Commander; for at that time we were not concerned with the question of National Socialism or democracy. That was no longer the question. At that time, the question was the "to be or not to be" of the entire German people. And in Germany as well there were patriots, not only in the neighboring states. And I considered myself to be one of the patriots as long as there was breath in my body. On the whole, it is not decisive, thequestion of to whom one is speaking, but it is important and decisive what oneis speaking about. I can say also that I gave that same speech to the Kreisbefehlshaber and to the high officers of the replacement armies.

Q Can you tell us this, please? The beginning and the end of the speech contained an eulogy on the party and the Fuehrer. Why did you do that? Why did you include that in an objective and purely military speech?

A It was impossible for me to begin and end a speech of that kind with a critical polemic on the party, or my Commander-in-Chief. It was necessary in order to create confidence between the officer and the leader of the

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party--for this confidence was not only a stipulation or requirement--so that the speech would actually serve its purpose. This confidence was the requirement for victory.

At any rate, I should like to say something of decisive importance. The material which is admitted by the prosecution as Document No. 172 is not the speech delivered by the Gauleiter; it is not that speech which I delivered. That is nothing else but the "waste basket" of this speech; for at first there was a rough draft, which this is, which was completely changed, for it contained many things which were not true, and which were inexact. And there is lacking the entire nucleus of the speech, which concerned itself with the situation at hand, and the part dealing with the enemy, the means at his disposal, and his intentions. The things contained in this document are many hundreds of notes for the speech, which were sent to me by my staff. I compiled my speech with some of these notes. All this material was returned to my staff by me.

Q Then it is not the manuscript of your speech?

A In no way is it the manuscript. The manuscript looks entirely different.

Q Noe we shall turn to a different point. Which leaders of the party did you meet from the assumption of power until the outbreak of the war?

A If I am not to mention the soldiers, Reichminister Frick. I was with him twice when the questions of Reich reform were to be dealt with and discussed.

Q And which of the defendants here present did you know before 1939, or before the beginning of the war?

A Of the defendants here, I knew the Reichsmarshal, officers, Grand Admiral Raeder, Field Marshal Keitel, and Minister Frick; no one else.

Q In the meantime, did you concern yourself with the literature of National Socialism?

A No.

Q Did you participate in the party rally?

A In the year 1937, in my official capacity, I participated at the last three days in Nurnberg of the Nurnberg rally, when the Wehrmacht, the SA

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and the Labor Front were reviewed.

Q Did you participate in the Memorial Services at Munich; that is, on the 9th of November?

A No. I did not belong there, in reality.

Q Can you tell us, please, what was your position with respect to the para-military units of the party?

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A. These pari-military organizations sprang up from the eath like mushrooms after the assumption of power. Only the SA and Roehm wanted all power. The Witness Gisevius said here that there had been no Roehm Putsch. That is correct, but it was just imminent. At that time, in the Reich's War Ministry, we were armed to the teeth, and Roehm was an actual revolutionary, not a "Gehrock Putschist". When the Fuehrer intervened in June of 1934, from that moment onward there were no conflicts of any sort between the Wehrmacht and the SA. The Wehrmacht became increasingly suspicious of the organizations of the SS, which from that moment onward multiplied in an extraordinary fashion. The Army, one can very well say, was never quite convinced and saw the necessity of this dualism of two armed units within the country.

Q. Now I should like to quote various excerpts from your War Diary, Document 1718-PS, Page 2 of the first volume of the Document Book, in order to show that Jodl again and again worked and concerned himself with the SS into the armed forces. On the 9th of April -- that is the second paragraph -- or rather, on the 22nd of March there is an entry to this effect. Then on the 19th of April: "H. visits Chief of Armaments Office; talks about his ideas concerning development of the SS; gives his misgivings."

In the French translation this "H", standing for Henry, is replaced by "Heydrich", and that, of course, is utter nonsense, for Heydrich certainly had no misgivings on the development of the SS; but the "H" stands for "Halder", who was the Quartermaster General. I do not know whether this correction was made in the French document book, but I am sorry to say I noted quite a few mistakes in translation in the English and French document books and applied to the General Secretary in this connection, to have these corrections made. I must say this large number of errors in translation makes me a little doubtful, especially if for an "H" the word "Heydrich" is substituted and the Chief of the Armament Office is brought together with one of the most unfortunate figures in the SS. I must saythis, that I am filled with misgivings in this direction because in the course of the last few months the Tribunal has received hundreds of documents, documents which were submitted and whose translation we could not check on, and when we do check on the translation we find that there are quite a

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few inadequacies, as Dr. Siemers has said.

THE PRESIDENT: Dr. Exner, you are supposed to be asking the questions. You are making some long statement now.

DR. EXNER: I should like to read this.

THE PRESIDENT: We can't have counsel making long statements which are not in evidence. You can't make statements of that sort about -- if there is any mistranslation you can draw our attention to it, but that is not the way to do it, making general statements about the translation of the documents.

DR. EXNER: Yes, Mr. President. I do not wish to give another explanation but I should like to quote an extract from my document book referring to the 3rd of February.

THE PRESIDENT: You have corrected one apparent mistranslation or misinterpretation of the letter "H". Well, you can do so again if necessary in other places. You can't make general statements about it.

DR. EXNER: Very well. I should like to read, Mr. President, may I? I should like to read extracts from my document book without trying to criticize I have no further statements along that line.

BY DR. EXNER:

Q. In this spot it says, on the 3rd of February, I quote: "General Thomas informs that the Liaison Officer to the Ministry of Economics and to the General Plenipotentiary Colonel Drews has visited him by order of Schacht. He was of the opinion that the SS employed all means to implicate the Army and to press her against the wall in its present weak state." Then it says, under the date of 10th of February: "Himmler is supposedly distressed that high officers of the armed forces had made unheard of accusations against him." Then perhaps one other passage to be found in the next document on page 4 of the document book, again the same Diary, PS-1780, the entry of the 26th of February: "The unlimited plan for expansion of the SS sounds generally suspicious." Did you, even at that time, have misgivings about the dangers of this dualism that you just mentioned a few minutes ago?

A. I had many, many thoughts about this and I am very well versed in history, but not only did I have misgivings but even during the war I quite

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openly expressed these misgivings to Himmler and Bormann.

Q. How did it come about that Himmler had more and more influence in military spheres?

A. That can be explained as follows: that the Fuehrer had the feeling -- which perhaps on the whole was true -- that a large part of the Officer Corps rejected his ideas. He saw in this attitude not only an inner political danger but he saw it in as well a danger to civtory and he believed that the war was to be won only through ruthless means and methods.

Q. And what practical results came about through this?

A. The practical results were that the SS units were multiplied tremendously, that the police received authority which extended into the operational sphere of the Army, and later that the Higher SS and Police Leaders were established; the Intelligence Service was transferred to the SS and the service was organized before; that the Replacement Army was put under the jurisdiction of Himmler and, in the end, also the entire prisoner of war system.

Q. In your Diary you said about the appointment of General von Brauchitsch as the Commander in Chief of the Army, that this appointment was made by the Fuehrer and that you were glad about this appointment. At that time there was a choice between him and von Reichenau. Why were you glad that Brauchitsch came in?

A. General von Reichenau was known as a truly political general and I was afraid that perhaps he might be willing to sacrifice the good old traditions of the Army to the new regime and do this without any scruples.

Q. I should like to refer to the Diary of Jodl, Document 1780-PS, page 6, first volume, with the entry of the 2nd of February, 1938, second paragraph, and again to the entry of the 3rd of February, to be found on Page 7: "The Chief of the Wehrmacht informs me that the battle has been won. The Fuehrer has decided that General von Brauchitsch would be appointed --"

THE PRESIDENT: I don't think you need read this. It simply says that he is in favor of von Brauchitsch.

DR. EXNER: I was just pointing that out to Your Honor.

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BY DR. EXNER:

Q. The consequences for the generals concerned, you thought about that in connection with the appointment of von Reichenau, is that true?

A. Yes. There was no doubt that the older generals, such as von Runstedt, Bock, Adam, List, Halder, and so on, would never have subordinated themselves to von Reichenau.

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Q. Then, after this introduction, let us turn to the crimes against the laws of war and humanity, charges which have been levelled against you. There is very little time left today. Therefore, I should like to clarify your participation in the Commissar Decrees. A draft on the treatment of Soviet commissars was submitted to the Leadership Staff of the Wehrmacht, and you put a notation in the margin of this draft.

THE PRESIDENT: What is the number of the document?

DR. EXNER: The number of the document is PS-884, R Exhibit 351, page 152, second volume of my document book.

BY DR. EXNER:

Q. The document is a report noted by you, and perhaps you can tell us first of all what connection you had with this matter; that is, the treatment of commissars.

A. I did not participate in the drafting of this report. I was not concerned with prisoners of war nor with the legal questions of war at that time. I was not concerned with either one of these matters, but the draft was submitted to me before it was transmitted to Field Marshal Keitel.

Q. All right. Now, you added, "We must count on retaliation against German fliers. It is safe, therefore, to brand the entire action as retaliation." That is a supplement that you made. What did you mean by that statement?

A. The intention on the part of the Fuehrer, which was set forth in this draft of an order, was rejected unanimously by all soldiers. Very excited discussions took place about this; also with the Commander in Chief of the Army. This resistance also ended with the characteristic sentence by the Fuehrer, "I can not expect that my generals will understand my orders, but I do demand that they follow them."

Now, in this case, through my notation, I wanted to show a new way to Field Marshal Keitel, a new way through which one could possibly circumvent this order or decree which had been demanded by the Fuehrer.

Q. This order, as you probably remember, is used by the Prosecution to accuse the German military, for it was drafted before the beginning of the war, on 12 May 1941. That is the date of this, and now you are telling us that

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"It is best to brand the entire action as retaliation." What do you mean by that?

A. It is correct that, because of his ideological opposition to Bolshevism the Fuehrer counted on the participation of the Commissars as a certainty and that he wanted to meet this. He was confirmed in this belief and gave reasons by saying: "I carried on the war against Communism for 20 years. I know it, but you do not know it." Those were his words, and I must add that we, as well, were under a certain influence of that which the literature of the entire world, beginning with 1917, had written about Bolshevism, and we had had some experiences dating from the communist republic in Munich.

Despite that, I was of the opinion that, first of all, we had to see whether in actual fact and in practice the commissars would actually act as the Fuehrer expected them to act, and that if the Fuehrer's suspicions were confirmed, we could make use of reprisals, and that was the sense and intention of my notation in the margin.

Q. First of all, you wanted to wait until the beginning of the war; then you wanted to wait until you had had experiences in this war, and then you wanted to propose measures which, if necessary, could be used as reprisals against the conduct of the war as carried out by the enemy, measures which woul have to be used then, and those were your thoughts, and that was what you meant when you said, "It is best, therefore, to brand the entire action as retaliation

Q. What do you mean by "Man zieht auf" -- "It is branded--"? These words were translated by the Prosecution --

MR. ROBERTS, K.C.: My Lord, in the examination of my learned friend, Dr. Exner, he has for several minutes now been asking the defendant very long leading questions as to what was the meaning of the passage in that letter. In my submission, that is not evidence at all by the witness; it is a speech by Dr. Exner, and I would ask him not to make another one now.

DR. EXNER: I am almost of the belief that it is necessary for me to determine just what the defendant thought while he was writing these words.

THE PRESIDENT: You have heard me say on several occasions that when Counsel ask leading questions, which put the answer into the mouth of the witne

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it carries very little weight with the Tribunal. It is perfectly obvious that, if your wanted to ask what the witness meant by his note, he could have answered and that is the proper way to put the question, and not to suggest the answer to him.

DR. EXNER: First of all, I put the question, and then I believe I was giving a resume of what the witness had said.

I have difficulty of translation in this regard which I should like to point out. The expression "aufziehen" is translated as "It is best therefore to brand --" in English and in French as "stigmatiser". It seems to me as though this were not quite correct and as though one should say, "It is best to handle it as a reprisal", and in French to say "traiter".

BY DR. EXNER:

Q. Then what happened?

A. I believe I must explain the German word "aufziehen". It was said that that was a remark typical of the defendant Jodl. That was a typical remark or military expression current in this time. That does not mean, as is assumed by the Prosecution, that I said I believed we must make this operation appear different. That meant to handle it differently. If we said that we would handle the showing of new weapons in a different way, we would arrange it differently. It would be in another order. I meant another way. Among us soldiers "aufziehen" meant to handle or to arrange it, but it did not mean to deceive.

Q. Then it does not have a deceptive connotation?

A. No.

THE PRESIDENT: We will adjourn now.

(The Tribunal adjourned until 4 June 1946, 1000 hours.)